

ARKANSAS CODE OF 1987 ANNOTATED

OFFICIAL EDITION



VOLUME 7A • TITLE 10; TITLE 11, CH. 1-7



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ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 7A

2012 Replacement

**TITLE 10: GENERAL ASSEMBLY
TITLE 11: LABOR AND INDUSTRIAL
RELATIONS
(CHAPTERS 1-7)**

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
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4063913

ISBN 978-0-7698-4669-9



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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2012 Fiscal Session. Annotations are to the following sources:

Arkansas Supreme Court and Arkansas Court of Appeals Opinions through 2012 Ark. LEXIS 146 (March 15, 2012) and 2012 Ark. App. LEXIS 324 (March 14, 2012).

Federal Supplement through February 22, 2012.

Federal Reporter 3d Series through February 22, 2012.

United States Supreme Court Reports through February 22, 2012.

Bankruptcy Reporter through February 22, 2012.

Arkansas Law Notes through the 2008 Edition.

Arkansas Law Review through Volume 61, p. 787.

University of Arkansas at Little Rock Law Review through Volume 30, p. 267.

ALR 6th through Volume 64, p. 655.

ALR Fed. 2d through Volume 46, p. 473.

Titles of the Arkansas Code

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| 3. Alcoholic Beverages | 18. Property |
| 4. Business and Commercial Law | 19. Public Finance |
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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1 of the Code.

TITLE 10

GENERAL ASSEMBLY

CHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. LEGISLATIVE PROCEEDINGS.
3. COMMITTEES.
4. LEGISLATIVE AUDIT.
5. COMMISSION ON INTERSTATE COOPERATION. [REPEALED.]
6. EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT.

APPENDIX — TITLE 10 SUNSET LAWS

Cross References. Legislative Department, Ark. Const., Art. 5.

Retirement of General Assembly members, §§ 24-4-704 — 24-4-707, 24-4-710.

Effective Dates. Acts 1875 (Adj. Sess.), No. 39, § 2: effective ninety days after passage. Approved November 30, 1875.

CASE NOTES

Extension of Sessions.

There is certainly no clear limitation upon the legislative power to extend the session by a two-thirds vote and no clear specification of a time beyond which, in the discretion of the General Assembly, exercised by the vote of two-thirds of the

members of both houses, the session may not be extended, and the determination of the date for termination of an extended session is a matter of legislative discretion. *Wells v. Purcell*, 267 Ark. 456, 592 S.W.2d 100 (1979).

CHAPTER 1 GENERAL PROVISIONS

[Reserved]

CHAPTER 2 LEGISLATIVE PROCEEDINGS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. COMPENSATION AND EXPENSES.
3. WITNESSES.
4. LOBBYISTS. [REPEALED.]
5. BILLS, RESOLUTIONS, AND AMENDMENTS.

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SECTION.

10-2-102. Duties of Secretary of Senate,

SECTION.

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- 10-2-112. Prefiling of bills and resolutions — Assignment to committee — Printing.
- 10-2-113. Senate confirmation of board and commission appointees.
- 10-2-114. Bills imposing new or additional costs on municipality or county — Fiscal impact statements.
- 10-2-115. Introduction of bills affecting public retirement programs.
- 10-2-116. Authentication of laws passed over veto.

SECTION.

- 10-2-117. Authentication of bill becoming law without Governor's signature.
- 10-2-118. Vacancies during recess.
- 10-2-119. Vacancies during session.
- 10-2-120. Elections to fill vacancies.
- 10-2-121. Designation of members to assist Boys State and Girls State — Compensation.
- 10-2-122. Designation of members to represent state at national conferences — Expenses.
- 10-2-123. Institute of Legislative Procedure.
- 10-2-124. Bills introduced to change existing circuit court districts.
- 10-2-125. Employees and officers.
- 10-2-126. Assistant to the President Pro Tempore of the Senate.
- 10-2-127. Fiscal impact statement.
- 10-2-128. Observance of Dr. Martin Luther King, Jr. holiday.
- 10-2-129. Drafting and information requests to legislative employees.
- 10-2-130. Use of education studies commissioned by General Assembly.
- 10-2-131. Internet broadcast of proceedings.

A.C.R.C. Notes. Acts 2012, No. 210, § 16, provided: "AUDIO/VISUAL POLICY. The appropriations provided herein to produce audio or video materials by or under the direction of the House of Representatives shall not be used for the following:

"(a) A person may not use audio or video materials produced by or under the direction of the House of Representatives in political or campaign advertising.

"(b) A person may not use audio or video materials produced by or under the direction of the House of Representatives for a commercial purpose.

"(1) In this section, 'commercial purpose' means a purpose that is intended to result in a profit or other tangible benefit.

"(c) The House Management Committee may give permission to an entity to use the audio or video materials for public

education governmental broadcast which shall not conflict with subsection (b)."

Cross References. Constitutional provisions concerning enactment of laws, Ark. Const., Art. 5, §§ 19 and 21-26.

Printing acts of General Assembly, § 25-18-205.

Preambles. Acts 1949, No. 376 contained a preamble which read: "Whereas, the Constitution of the State of Arkansas provides in Article 5, Section 12 that: 'Each House shall keep a journal of its proceedings and from time to time publish the same....'"

Effective Dates. Acts 1875 (Adj. Sess.), No. 88, § 3: effective on passage. Approved Dec. 14, 1875.

Acts 1889, No. 38, § 9: effective eighty days after its passage. Approved Mar. 13, 1889.

Acts 1895, No. 97, § 6: May 1, 1895.

Acts 1949, No. 310, § 3: approved Mar. 19, 1949. Emergency clause provided: "It is hereby determined that the installation of the electric roll call system has raised unforeseen problems in the accurate recording of facts to be registered by the system, and that this act is necessary to insure the integrity of the records made by the system. An emergency is, accordingly, declared to exist, and this act shall take effect on its passage."

Acts 1949, No. 376, § 2: Mar. 23, 1949. Emergency clause provided: "It is hereby determined that the certification of the journals of each House of the General Assembly to the Secretary of State as a public document is in compliance with the Constitution of the State of Arkansas, and in order to prevent the expenditure of any public funds for printing such journals under any printing contracts, an emergency is declared to exist, and this act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 235, § 4: June 30, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that most of the affairs of this State are conducted by boards and commissions; that the activities of such boards and commissions vitally affect the public peace, health, safety and welfare; that the appointment of capable and qualified members of such boards and commissions is of vital importance for the proper discharge of duties imposed on such boards and commissions; that many appointments are now being made of persons who are not qualified for such positions; that confusion exists in the method of appointments of members of boards and commissions from congressional districts, and clarification of laws governing such appointments is immediately necessary; and, that only by the immediate passage of this Act may the same be corrected. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 182, § 3: Feb. 18, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Boys and Girls State

program is of great value to the State of Arkansas, that participation by members of the General Assembly is a direct benefit to the Boys and Girls State program, that per diem and mileage should be allowed to those members of the General Assembly participating in such program, and that this act should be implemented immediately to insure that it will be effective when Boys and Girls State next meets. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 289, § 2: Mar. 3, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that each session of the General Assembly considers numerous bills proposing amendments, changes, or additions to the publicly supported retirement systems, and that due to the limitations of the time available during each Regular and Special Session, there are not sufficient opportunities to adequately study and review many aspects of the retirement systems that would be affected by such proposed legislation; and that the establishment of a Joint Interim Committee of the General Assembly to serve as an overview committee over the various retirement systems is essential to the proper functioning of the General Assembly; and that the immediate passage of this act is necessary in order to establish the Joint Interim Committee on Public Retirement and Social Security Programs in order that said committee may enter upon its duties immediately upon adjournment of the Seventieth Session of the General Assembly. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 806, § 3: Apr. 3, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 221 of 1977, which requires the filing of a fiscal impact statement with respect to bills that impose new or increased cost obligations on municipalities or counties, is not accomplishing the purposes for which it was initially enacted, and that this act is designed to

accomplish procedures more in keeping with the rules and procedures of the two houses of the General Assembly with respect to the consideration of bills which require fiscal impact statements on new or additional costs imposed on municipalities or counties, and that the immediate passage of this act is necessary to provide for the enactment of said procedure prior to the adjournment of this Regular Session. Therefore, an emergency is hereby declared to exist and this act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1, § 16: Jan. 14, 1987. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Sixth General Assembly, and this Act being necessary for the preservation of the peace, health, and safety of the people of the State of Arkansas, an emergency is hereby declared to exist and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1987, No. 2, § 12: Jan. 14, 1987. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Sixth General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1989 (1st Ex. Sess.), No. 143, § 18: June 23, 1989. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Seventh General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1991, No. 1, § 14: Jan. 17, 1991. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Eighth Gen-

eral Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1991, No. 2, § 12: Jan. 17, 1991. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Eighth General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1991, No. 30, § 14: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 134, § 12: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1991, No. 868, § 5: Mar. 29, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the untimely introduction of legislation affecting state-supported retirement systems during a legislative session creates an impossible task for staff and committee members to prepare and analyze fiscal impact statements; that the current method of limiting retirement legislation introduction has not proven adequate; and that the immediate approval of this bill upon passage is required to alleviate this problem during the current legislative session. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 969, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1991, No. 1240, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as

possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1993, No. 1, § 11: Jan. 14, 1993. Emergency clause provided: "It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Ninth General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist, and this Act shall take effect and be in full force from and after its passage and approval."

Acts 1993, No. 102, § 5: Feb. 9, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly of the State of Arkansas that Arkansas law provides for a thirty (30) day deadline for the introduction of bills affecting the public retirement programs; that under certain circumstances and in emergencies, the General Assembly may be required to recess for an extended period during the first 30 days of any Regular Session; and that proper consideration of any bills affecting public retirement programs will require the extension of the thirty (30) day deadline. Therefore, in order to provide a procedure to suspend the 30-day introduction deadline, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 671, § 13: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby de-

clared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993.”

Acts 1995, No. 3, § 17: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

Acts 1995, No. 143, § 13: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

Acts 1997, No. 3, § 15: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the

appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997.”

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

Acts 2005, No. 693, § 13: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005.”

Acts 2007, No. 151, § 2: February 28, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the current procedure concerning submission and approval or rejection of appointments by the Governor needs revision; and that

these revisions are immediately necessary because appointments will be considered during this session of the General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 286, § 13: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of

funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2007 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2007 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2007."

Acts 2007, No. 875, § 2: "This act shall apply beginning with the 2009 Regular Session of the General Assembly."

RESEARCH REFERENCES

ALR. Validity, construction and effect of state constitutional statutory provision regarding nepotism in the public service. 11 A.L.R.4th 826.

Validity and construction of orders and enactments requiring disclosure of financial interests by public officers and employees or candidates for office. 22

A.L.R.4th 237.

Validity, construction, and effect of state statutes restricting political activities of public officers or employees. 51 A.L.R.4th 702.

Am. Jur. 72 Am. Jur. 2d, States, § 35 et seq.

C.J.S. 81A C.J.S., States, § 40 et seq.

10-2-101. Time for meeting.

(a)(1) The General Assembly shall meet in regular session at 12:00 noon on the second Monday in January in each odd-numbered year.

(2)(A) However, in any odd-numbered year following the election of a nonincumbent governor, the General Assembly upon convening at 12:00 noon on the second Monday in January may remain in session only for such time not to exceed two (2) days as is necessary to open and publish the votes for various constitutional offices, to swear in the state constitutional officers and members of the General Assembly, to organize and select officers, and to otherwise prepare for the regular session.

(B) The General Assembly may then stand in recess for a period not to exceed thirty (30) days.

(b)(1) The General Assembly shall meet in a fiscal session at 12:00 noon on the second Monday in February of each even-numbered year to consider appropriation bills.

(2) A bill other than an appropriation bill may be considered in a fiscal session if two-thirds (2/3) of the members of each house of the General Assembly approve consideration of the nonappropriation bill.

History. Acts 1875 (Adj. Sess.), No. 39, § 1, p. 42; C. & M. Dig., § 4919; Pope's Dig., § 6136; Acts 1981, No. 847, § 1; A.S.A. 1947, § 4-101; Acts 2009, No. 962, § 8.

Amendments. The 2009 amendment added the subsection and subdivision des-

ignations; deleted "biennial" preceding "session" in (a)(1); substituted "The General Assembly" for "It" in (a)(2)(B); and added (b).

Cross References. Duration of regular sessions, Ark. Const., Art. 5, § 17.

10-2-102. Duties of Secretary of Senate, Chief Clerk of the House of Representatives, and other officers.

(a) The Secretary of the Senate and the Chief Clerk of the House of Representatives, with their respective clerical forces, shall perform all duties required in the engrossment and enrollment of bills and all necessary work as clerks of committees.

(b) The employees of the Senate shall perform such duties during the regular session of the General Assembly and during the interim between the convening of special sessions, fiscal sessions, and the regular sessions of the General Assembly as may be provided by the Rules of the Senate or by the Senate Efficiency Committee, subject to the approval of the Senate.

History. Acts 1895, No. 97, § 4, p. 142; C. & M. Dig., § 4955; Pope's Dig., § 6185; A.S.A. 1947, § 4-407; Acts 1987, No. 2, § 9; 1989 (1st Ex. Sess.), No. 143, § 9; 1991, No. 30, § 9; 2005, No. 693, § 7; 2007, No. 286, § 7; 2009, No. 962, § 9.

Amendments. The 2007 amendment deleted "Senate Chief of Staff" in the section heading, and deleted (b)(2) and (b)(3).

The 2009 amendment substituted "fiscal sessions, and the regular sessions" for "and the next regular session" in (b).

10-2-103. Coordinator of House Legislative Services.

(a) The Coordinator of House Legislative Services shall be appointed by the Speaker of the House of Representatives with the approval of the House Management Committee.

(b)(1) The Coordinator of House Legislative Services shall perform such duties as may be provided by Rules of the House of Representatives and as provided by the Speaker of the House of Representatives and the House Management Committee.

(2) In addition thereto, the Coordinator of House Legislative Services shall hereafter perform all duties imposed upon the Chief Clerk of the House of Representatives now provided by law or authorized by Rules of the House of Representatives especially with respect to the disbursement of House funds, the keeping of fiscal accounts and records, the signing of official documents, and the acquisition of stationery, postage, and other supplies for the House and its members.

(3) The Coordinator of House Legislative Services shall hereafter perform all duties imposed upon the Chief Clerk of the House of Representatives with respect to the payment of interim expense funds to members of the House as authorized by § 10-2-212.

History. Acts 1991, No. 1, § 3.

10-2-104. Duties of assistant sergeants at arms.

The assistant sergeant at arms in each house shall perform the duties of doorkeeper and postmaster of his or her respective house.

History. Acts 1889, No. 38, § 7, p. 52;
C. & M. Dig., § 4956; Pope's Dig., § 6186;
A.S.A. 1947, § 4-408.

10-2-105. Administration of oaths.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives may administer oaths to the members and officers of their respective houses.

(b) The President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the chair of a committee of the Senate or of the House of Representatives, or his or her designee, may administer oaths to witnesses in any case under their examination.

History. Rev. Stat., ch. 90, § 17; C. & M. Dig., § 4926; Pope's Dig., § 6148; A.S.A. 1947, § 4-102; Acts 2009, No. 1465, § 1.

Amendments. The 2009 amendment rewrote the section.

Cross References. Oath of office, Ark. Const., Art. 19, § 20.

10-2-106. Elections.

In all elections made by either house or by a joint vote of both houses, the votes of a majority of all the members present shall be necessary to a choice, and when an election shall be by joint vote, the President of the Senate and the Speaker of the House of Representatives shall grant the person so elected a certificate thereof, which, in all cases in which a commission is required, shall be sufficient to authorize the granting of the commission.

History. Rev. Stat., ch. 90, § 16; C. & M. Dig., § 4948; Pope's Dig., § 6170; A.S.A. 1947, § 4-108.

Cross References. Method of taking vote, Ark. Const., Art. 5, § 14.

10-2-107. Election of Speaker of the House of Representatives in doubt — Procedure.

(a) If, after the biennial general election and prior to the convening of the regular session, a statement signed by fifty (50) or more members of the House of Representatives who will serve at the next-following regular session of the General Assembly is filed with the current Speaker of the House of Representatives stating that the members believe that the formal election of the new Speaker of the House of Representatives is in doubt, then the current Speaker of the House of Representatives shall call a one-day organizational meeting of all members and members-elect of the House who will serve at the next regular session. This meeting shall be held for the single purpose of

designating the Speaker of the House of Representatives for the next General Assembly.

(b) If the special organizational meeting of members of the House is called, all members and members-elect of the House who will serve at the next-following regular session of the General Assembly shall be entitled to receive per diem and mileage for attending the meeting.

History. Acts 1973, No. 208, § 3; A.S.A. 1947, § 4-145; Acts 2009, No. 962, § 10.

Amendments. The 2009 amendment, in the first sentence of (a), substituted “regular session” for “General Assembly” near the beginning, and inserted “regular” following “next-following.”

10-2-108. Manuscripts of daily proceedings — Journals.

(a) Whenever the daily proceedings of either house of the General Assembly shall be made up in manuscript form, the manuscript shall be signed each day by the presiding officers of the respective houses and attested by the secretary or clerk thereof.

(b) In addition to the transcribed record of the journals of either house, the manuscript proceedings shall also be filed in the office of the Secretary of State, which manuscript proceedings shall be kept and preserved by the Secretary of State.

(c) A certified transcript of the proceedings of each house of the General Assembly shall be filed with the Secretary of State as a public document and shall be made available in the office of the Secretary of State for the inspection of any citizen requiring information therefrom, but the journals shall not be printed by the State of Arkansas.

History. Acts 1875 (Adj. Sess.), No. 88, § 2, p. 168; C. & M. Dig., § 4949; Pope’s Dig., § 6171; Acts 1949, No. 376, § 1; A.S.A. 1947, §§ 4-109, 4-116.

Cross References. Duty to keep journals, Ark. Const., Art. 5, § 12.

Publication of journals of legislative proceedings, § 25-18-204.

Records of General Assembly kept by Secretary of State, § 25-16-403.

CASE NOTES

Passage of Acts.

For the proper passage of an act by the General Assembly, the Constitution requires not merely that the yeas and nays shall be taken on the final passage of the

bill but also that the same shall be entered on the journal thus making the journal entry the sole evidence of the proceedings. *Niven v. Road Improv. Dist.*, 132 Ark. 240, 200 S.W. 997 (1918).

10-2-109. Joint sessions.

(a) When by the Constitution or laws of the state a joint meeting of the Senate and House of Representatives is required, they shall assemble with their clerks on the day and at the hour previously agreed on for that purpose in the hall of the House of Representatives.

(b) When the meeting is assembled, the President of the Senate and Speaker of the House of Representatives shall preside in conjunction, and the meeting shall be governed by such standing rules as shall have been adopted for that purpose by the concurrence of both houses. They

shall have power to punish any person other than a member for disorderly or contemptuous behavior in their presence by fine and imprisonment in the same manner and to the same extent as either house may do for like conduct before it by the Constitution and laws of this state.

(c) Any member of either house who shall be guilty of disorderly behavior in the presence of the meeting may be punished by the house of which he or she is a member in the same manner as if the offense had been committed in the presence of that house.

History. Rev. Stat., ch. 90, §§ 1-3; C. & M. Dig., §§ 4934-4936; Pope's Dig., §§ 6156-6158; A.S.A. 1947, §§ 4-103 — 4-105.

Cross References. Power to punish for disorderly conduct, Ark. Const., Art. 5, § 12.

10-2-110. Disorderly conduct.

(a) If any person, whether a member or not, shall be guilty of any disorder in the presence of either house or a Committee of the Whole, or in a joint meeting of both houses, while in session, the presiding officer of the house or joint meeting or Chair of the Committee of the Whole may order the person into immediate custody. The sergeant at arms shall immediately take the person into custody and detain him or her until the further order of the house, joint meeting, or Committee of the Whole, before which offense was committed.

(b) If any person, whether a member or not, shall disturb the proceedings of any committee of either house or be guilty of disorderly conduct in their presence, the house appointing the committee may punish the person in the same manner as if the offense had been committed in the presence of the house. If the disorder or offense shall be committed before a joint committee of both houses, the President of the Senate shall issue process, and both houses shall proceed in joint meeting.

History. Rev. Stat., ch. 90, §§ 4, 5; C. & M. Dig., §§ 4924, 4925; Pope's Dig., §§ 6145, 6146; A.S.A. 1947, §§ 4-106, 4-107.

Cross References. Power to punish for disorderly conduct, Ark. Const., Art. 5, § 12.

10-2-111. Unauthorized use of roll call system — Penalty.

(a) Any person who, by tampering with the mechanism of the electric roll call system in the Chamber of the House of Representatives, shall willfully cause the vote indicated at any station to be incorrectly recorded shall be guilty of a misdemeanor, and, upon conviction, he or she shall be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000).

(b) Any person not a member of the House of Representatives who, during the taking of a vote on any matter before a session of the House or during the calling of a roll in the House, shall operate a voting station of the electric roll call system shall be guilty of a misdemeanor and,

upon conviction, he or she shall be fined not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000).

History. Acts 1949, No. 310, §§ 1, 2; A.S.A. 1947, §§ 4-114, 4-115.

Cross References. Misdemeanors, § 5-1-107.

10-2-112. Prefiling of bills and resolutions — Assignment to committee — Printing.

(a)(1) The Chief Clerk of the House of Representatives and the Secretary of the Senate, under the direction and supervision of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, shall establish a system for the prefiling of bills and resolutions beginning on:

(A) November 15 of each year preceding a regular session of the General Assembly; and

(B)(i) The second Monday of January of each year of a fiscal session of the General Assembly.

(ii) A nonappropriation bill may not be prefiled prior to a fiscal session due to the requirement in Arkansas Constitution, Amendment 86, that a concurrent resolution be approved by a vote of two-thirds (2/3) of the members elected to each house before either body may consider a nonappropriation bill.

(2) Under that presession filing system, each member-elect of the General Assembly and holdover member of the Senate who will be serving at the next-following regular session of the General Assembly shall be permitted to prefile bills and resolutions for the next regular session as soon as the members-elect of the next General Assembly are certified to the Secretary of State.

(b) The Chief Clerk of the House of Representatives and the Secretary of the Senate, respectively, shall assign numbers to House and Senate bills and resolutions.

(c) The Speaker-elect of the House of Representatives and the President Pro Tempore of the Senate shall provisionally assign all prefiled bills and resolutions to committees. Upon the convening of the General Assembly, the respective bodies shall review the assignment of the bills and resolutions made prior to the convening of the session by the Speaker-elect of the House of Representatives and the President Pro Tempore of the Senate, and shall make official assignments of the bills and resolutions in accordance with their respective rules.

(d) The legislative printing contract which includes the printing of bills, resolutions, committee reports, special reports, approved acts, and other specified legislative documents shall include the printing of prefiled bills and resolutions filed pursuant to this section.

History. Acts 1973, No. 91, §§ 1, 2; A.S.A. 1947, §§ 4-146, 4-147; Acts 1987, No. 64, § 1; 1991, No. 203, § 1; 2003, No. 1473, § 18; 2009, No. 962, § 11.

Amendments. The 2009 amendment added (a)(1)(B)(1) and (a)(1)(B)(2), and made related changes.

10-2-113. Senate confirmation of board and commission appointees.

(a) All appointments made by the Governor of members of boards and commissions of the State of Arkansas, except appointments of members of boards and commissions governed by specific constitutional provisions that may be in conflict with this section, shall be subject to confirmation by the Senate. However, if any such appointment is made while the General Assembly is not in session, the person so appointed may qualify and hold office until the appointment shall be rejected by the Senate.

(b)(1) The Governor shall submit to the Senate within thirty (30) days after the General Assembly convenes in a regular session and within fifteen (15) days after the General Assembly convenes in a fiscal session the names of all appointments to boards and commissions of this state made subsequent to adjournment of the Senate at the last regular session or fiscal session of the General Assembly.

(2) Upon the convening of a special session of the General Assembly, the Governor shall immediately submit the names of all appointments to boards and commissions of this state made subsequent to adjournment of the Senate at the last regular session, fiscal session, or special session of the General Assembly.

(3) All appointments of members of boards and commissions of this state made while the General Assembly is in session shall be submitted immediately to the Senate.

(c) If an appointment is rejected by the Senate, the person rejected shall not thereafter be eligible to serve in the position or exercise the powers of the position, unless the appointment of the person is first approved by the Senate.

History. Acts 1967, No. 235, § 1; A.S.A. 1947, § 6-606; Acts 2007, No. 151, § 1; 2009, No. 962, § 12.

Amendments. The 2007 amendment added (b)(2) and (c), and redesignated subsections accordingly; and in (b)(1), substituted "thirty (30) days" for "ten (10) days."

The 2009 amendment, in (b)(1), substituted "a regular session and within fifteen

(15) days after the General Assembly convenes in a fiscal" for the first occurrence of "regular" and inserted "or fiscal session" preceding "of the General Assembly"; and substituted "regular session, fiscal session, or" for "regular session or" in (b)(2).

Cross References. Appointment, confirmation of honorary board and commission members, § 25-17-204.

10-2-114. Bills imposing new or additional costs on municipality or county — Fiscal impact statements.

(a)(1) Any bill filed with the Senate that requires an expenditure of public funds by a municipality or county or otherwise imposes a new or increased cost obligation on any municipality or county shall have a fiscal impact statement attached to it prepared by the author of the bill and filed with the bill at the time of its introduction. A copy of such fiscal impact statement shall be placed on the desk of each member of the Senate committee to which the bill is referred before the bill may be

called up for final action in the committee. A copy of it shall also be placed on the desk of each member of the Senate before a final vote may be taken on it for final passage.

(2) If the author of any Senate or House of Representatives bill affected by this section shall fail to file a fiscal impact statement, any member of the Senate committee to which the bill is referred may object to its being called up for final action in the committee until a fiscal impact statement is made available to the committee. If such an objection is made by a member of the Senate committee, the chair of the committee shall refer the bill to the appropriate state agency or to the legislative staff for the preparation of a fiscal impact statement, to be returned to the committee in writing not later than five (5) days from the date of the request.

(3) If any such Senate or House bill is called up for final passage in the Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, any member of the Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the Senate at least one (1) day prior to the bill's being called up for final passage. If such an objection is made, the presiding officer of the Senate shall cause the bill to be referred to the appropriate state agency or to the designated legislative staff for the preparation of a fiscal impact statement which shall be filed in writing with the Senate not later than five (5) days from the date of the request.

(b)(1) When any House or Senate bill requiring an expenditure of public funds or otherwise imposing a new or increased cost obligation on any municipality or county is pending before any committee of the House, any member of the committee may request that a fiscal impact statement for the bill be placed on the desk of each member of the committee before the bill is called up for final action in the committee. If a request is made, the chair of the committee shall refer the bill to the appropriate state agency or to the legislative staff for the preparation of a fiscal impact statement to be returned to the committee in writing not later than five (5) days from the date of the request.

(2) Any time before the bill is read the third time in the House, a member of the House may request that a fiscal impact statement for the bill be prepared and placed on the desk of each member. When a member of the House so requests a fiscal impact statement on any bill, the Speaker of the House of Representatives shall furnish the member a fiscal impact statement signature form which shows the number of the bill for which the statement is requested and the date and time the request was made. If the member returns the form containing the signature of the requesting member and the signatures of at least nine (9) other House members within thirty (30) minutes of the time shown on the form, the fiscal impact statement shall be prepared and placed on the desk of each member of the House before the bill is read the third time.

(3) If a bill is called up for final passage in the House and a fiscal impact statement has not been provided for the bill, any member of the House in which the bill is being considered may move that a final vote on the passage of the bill be delayed until a fiscal impact statement is prepared and made available on the desk of each member of the House at least one (1) full day prior to the bill's being called up for final passage. If the motion is made and is adopted by a majority vote of the membership of the House, the Speaker of the House of Representatives shall cause the bill to be referred to the appropriate state agency or to the designated legislative staff for the preparation of a fiscal impact statement which shall be filed with the House within five (5) days of the date of the request.

(c) Failure of the sponsor of a bill to provide the fiscal impact statement required in this section shall not prohibit the consideration of it in the committee to which referred or on the floor of the house in which the bill is called up for final passage if no objection to it is made at the time such action is taken.

(d) Nothing in this section shall prohibit a committee to which a bill is referred or the house in which the bill is being considered from suspending the requirement of the filing of a fiscal impact statement on any such bill in the same manner as provided for the suspension of the rules in the house in which the bill is being considered.

(e) Copies of fiscal impact statements prepared in compliance with the provisions of this section shall be made available upon request for them to representatives of municipal or county governments. A fiscal impact statement filed or prepared in compliance with this section is declared to be a public record within the meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq.

(f) For the purposes of this section, the term "fiscal impact statement" means a realistic statement of the estimated financial cost to municipalities or counties of implementing or complying with a proposed law and regulations promulgated under it.

History. Acts 1985, No. 806, § 1; A.S.A. 1947, § 13-2304; Acts 1992 (1st Ex. Sess.), No. 43, § 1.

Publisher's Notes. Acts 1985, No. 806, § 1, is also codified as § 19-1-303.

Acts 1992 (1st Ex. Sess.), No. 43, § 1, is also codified as § 19-1-303.

Cross References. Filing of proposed bills with interim committees, § 10-3-217.

Fiscal notes required for bills relating to public retirement or social security programs, § 10-3-702.

10-2-115. Introduction of bills affecting public retirement programs.

(a) Any proposed legislation affecting any publicly supported retirement system or pension plan to be considered by the General Assembly at a regular session shall be introduced in the General Assembly during the first fifteen (15) calendar days of a regular session.

(b)(1) No such bill shall be introduced after the fifteenth day of a regular session unless its introduction is first approved by a three-

fourths (3/4) vote of the full membership of each house of the General Assembly.

(2) Additionally, if the General Assembly recesses for longer than three (3) consecutive days during the first fifteen (15) days of a regular session, the fifteen-day introduction deadline shall be extended for a time period equal to the recess.

(c) A bill affecting any publicly supported retirement system or systems shall not be introduced or considered at any special session or fiscal session of the General Assembly unless the introduction and consideration of the bill is first approved by a three-fourths (3/4) vote of the full membership of each house of the General Assembly.

History. Acts 1975, No. 289, § 1; A.S.A. 1947, § 4-151; Acts 1991, No. 868, § 1; 1993, No. 102, § 1; 1999, No. 1026, § 1; 2001, No. 147, § 1; 2009, No. 962, § 13.

Amendments. The 2009 amendment substituted "regular session" for "regular biennial session" throughout; and in-

serted "or fiscal session" preceding "of the General Assembly" in (c).

Cross References. Fiscal notes required for bills relating to public retirement or social security programs, § 10-3-702.

10-2-116. Authentication of laws passed over veto.

(a) When a bill that has passed both houses of the General Assembly shall be returned by the Governor without his or her signature and with his or her objections thereto, and, upon reconsideration, shall pass both houses by the constitutional majority, it shall be authenticated as having become a law by a certificate endorsed thereon or attached thereto, in the following form:

"This bill having been returned by the Governor with his or her objections thereto and, after reconsideration having passed both houses by the constitutional majority, has become a law this day of"

(b) The certificate, having been signed by the President of the Senate and Speaker of the House of Representatives, shall be deemed a sufficient authentication thereof, and the bill shall again be presented to the Governor to be by him or her deposited with the laws in the office of the Secretary of State.

History. Rev. Stat., ch. 89, § 1; C. & M. Dig., § 4969; Pope's Dig., § 6199; A.S.A. 1947, § 4-310.

Cross References. Passage of bills over veto of Governor, Ark. Const., Art. 6, § 15.

10-2-117. Authentication of bill becoming law without Governor's signature.

Every bill which shall have passed both houses of the General Assembly and shall not be returned by the Governor within five (5) days, having thereby become a law, shall be authenticated by the Governor causing the fact to be certified thereon by the Secretary of State in the following form:

"This bill having remained with the Governor five (5) days, Sunday excepted, and the General Assembly being in session, it has become a law this day of

.....
Secretary of State".

History. Rev. Stat., ch. 89, § 2; C. & M. Dig., § 4971; Pope's Dig., § 6201; A.S.A. 1947, § 4-311.

Cross References. Bill becoming law without signature of Governor, Ark. Const., Art. 6, § 15.

CASE NOTES

Copy of Bill.

Enrolled copy containing both the signature of the Secretary of State and the endorsement of the Governor's failure to

sign bill sufficient to authenticate bill. *Horton v. Gillespie*, 170 Ark. 107, 279 S.W. 1020 (1926).

10-2-118. Vacancies during recess.

(a) When any member elected to either house of the General Assembly shall resign in the recess thereof, he or she shall address and transmit his or her resignation in writing to the Governor.

(b) Whenever the Governor shall receive any resignation or notice of vacancy or when he or she shall be satisfied of the death of any member of either house during the recess thereof, he or she shall without delay issue a writ of election to support the vacancy.

History. Rev. Stat., ch. 70, §§ 1, 2; C. & M. Dig., §§ 4962, 4963; Pope's Dig., §§ 6192, 6193; A.S.A. 1947, §§ 4-110, 4-111.

Cross References. Governor to issue writs of election to fill vacancies, Ark. Const., Art. 5, § 6.

10-2-119. Vacancies during session.

(a) When any member shall resign during any session, he or she shall address his or her resignation to the presiding officer of the house of which he or she is a member, which resignation shall be entered upon the journal.

(b) In all cases of vacancies happening or being declared during any session of the General Assembly, by death, expulsion, or otherwise, the presiding officer of the house in which the vacancy shall happen shall immediately notify the Governor, who shall immediately issue a writ of election to fill the vacancy.

History. Rev. Stat., ch. 70, § 1; C. & M. Dig., § 4962; Pope's Dig., § 6192; A.S.A. 1947, § 4-110.

Cross References. Governor to issue writs of election to fill vacancies, Ark. Const., Art. 5, § 6.

10-2-120. Elections to fill vacancies.

(a)(1) When any vacancy shall happen in the Senate for a district composed of more than one (1) county, the writ of election shall be directed to the sheriff of the county first named in the law establishing the district.

(2) When the vacancy shall happen in a senatorial district which shall have been divided or altered after the general election next preceding the occurrence of the vacancy, the writ of election shall be directed to the sheriff of the county first named in the old district.

(3) When any vacancy shall happen in either house for any county which shall have been divided after the general election next preceding the occurrence of the vacancy, the writ of election shall be directed to the sheriff of the old county.

(b) The sheriff to whom any writ of election shall be delivered shall cause the election to supply the vacancy to be held within the limits composing the county or district at the time of the next preceding general election. He or she shall issue his or her proclamation or notice for holding the election accordingly and transmit a copy thereof, together with a copy of the writ, to the sheriff of each of the counties within which any part of the old county may lie, who shall cause copies of the notice to be put up. The election is to be held accordingly in those parts of their respective counties which composed a part of the old county or district for which the election was held at the last preceding general election. The returns shall be made and the certificate of election granted in the same manner as if no division had taken place.

History. Rev. Stat., ch. 70, §§ 3, 4; C. & M. Dig., §§ 4964, 4965; Pope's Dig., §§ 6194, 6195; A.S.A. 1947, §§ 4-112, 4-113.

Cross References. Special elections, time and notice, § 7-5-202.

10-2-121. Designation of members to assist Boys State and Girls State — Compensation.

(a) The Speaker of the House of Representatives is authorized to designate up to ten (10) members of the House of Representatives at any one (1) time and the President Pro Tempore of the Senate is authorized to designate up to five (5) senators at any one (1) time to assist in the annual Boys State and Girls State sponsored by the American Legion and other student government organizations.

(b) Monetary allowances for per diem and reimbursements for mileage as authorized by § 10-2-217 for members assisting such organizations shall be paid to members of the House from any unexpended balance of House funds and to members of the Senate from any unexpended balance of Senate funds appropriated to support the respective houses of the General Assembly.

History. Acts 1975, No. 182, § 1; A.S.A. 1947, § 4-150.

10-2-122. Designation of members to represent state at national conferences — Expenses.

(a) The President Pro Tempore of the Senate or the Chair of the Senate Efficiency Committee, or both, are hereby authorized to designate one (1) or more members of the Senate or staff, or both, to represent the Senate at regional or national conferences of legislators or other official meetings held during the interim between legislative sessions at which the State of Arkansas is requested to be represented by members of the General Assembly and may pay the actual and necessary travel, meals, and lodging, and other expenses therefor from the funds appropriated to the Senate.

(b) The Speaker of the House of Representatives is authorized to designate, subsequent to the adjournment of the General Assembly, one (1) or more members of the House of Representatives to represent the House at regional or national conferences of legislators or other official meetings held during the interim between legislative sessions at which the State of Arkansas is requested to be represented by members of the General Assembly and may pay the actual and necessary travel, meals and lodging, and other expenses.

History. Acts 1987, No. 1, § 7; 1987, No. 2, § 8; 1993, No. 1, § 6.

A.C.R.C. Notes. Former § 10-2-122, concerning designation of members to represent state at national conferences and

their expenses, is deemed to be superseded by this section. The former section was derived from Acts 1985, No. 1, § 8; 1985, No. 2, § 7; A.S.A. 1947, §§ 4-155, 4-156.

10-2-123. Institute of Legislative Procedure.

(a) The General Assembly hereby determines that the conducting of an Institute of Legislative Procedure prior to the convening of regular sessions of the General Assembly on rules and legislative procedure and current fiscal conditions and other problems in state government is essential to the proper functioning of each regular session of the General Assembly.

(b) The Senate, the House of Representatives, the Legislative Council, and the Legislative Joint Auditing Committee shall cooperate in jointly sponsoring a biennial Institute of Legislative Procedure to carry out the aforementioned purposes.

(c)(1) Members of the preceding General Assembly and the newly elected members of the House and Senate shall be eligible to attend the biennial Institute of Legislative Procedure and shall be entitled upon filing claim therefor to per diem in the amount fixed by law for members of the General Assembly to receive for attendance at legislative sessions, for each day in attending the biennial Institute of Legislative Procedure plus mileage for traveling from their place of residence to the biennial Institute of Legislative Procedure and return.

(2) Per diem and mileage for members of the General Assembly and newly elected members of the General Assembly for attending the

biennial Institute of Legislative Procedure shall be paid by the respective houses from the moneys appropriated therefor.

History. Acts 1991, No. 30, § 6; 1991, No. 134, § 7; 1991, No. 969, §§ 2, 7, 8; 1991, No. 1240, §§ 2, 7, 8; 1995, No. 3, § 8; 1997, No. 3, § 8.

A.C.R.C. Notes. Former § 10-2-123; concerning the Institute of Legislative Procedure, is deemed to be superseded by this section. The former section was derived from: Acts 1989 (1st Ex. Sess.), No. 143, § 7; 1989 (1st Ex. Sess.), No. 204, § 8. Similar provisions which were also codified as § 10-2-123, and were previously superseded, were derived from Acts 1985, No. 2, § 8; A.S.A. 1947, § 4-153; Acts 1987, No. 1, § 8; 1987, No. 2, § 7.

Acts 2011, No. 3, § 9, provided: "LEGISLATIVE INSTITUTE. Members of the preceding General Assembly and the newly elected members of the House of Representatives and Senate shall be eligible to attend the biennial Institute of Legislative Procedure and shall be entitled, upon filing claim therefor, to per diem in the amount fixed by law for members of the General Assembly to receive for attendance at Legislative sessions, for

each day in attending the biennial Institute of Legislative Procedure plus mileage for traveling from their place of residence to the biennial Institute of Legislative Procedure and return."

Acts 2012, No. 1, § 9, provided: "LEGISLATIVE INSTITUTE. Members of the preceding General Assembly and the newly elected members of the House of Representatives and Senate shall be eligible to attend the biennial Institute of Legislative Procedure and shall be entitled, upon filing claim therefor, to per diem in the amount fixed by law for members of the General Assembly to receive for attendance at Legislative sessions, for each day in attending the biennial Institute of Legislative Procedure plus mileage for traveling from their place of residence to the biennial Institute of Legislative Procedure and return."

Cross References. Legislative Council, § 10-3-301 et seq.

Legislative Joint Auditing Committee, § 10-3-401 et seq.

10-2-124. Bills introduced to change existing circuit court districts.

(a) All bills introduced in either house of the General Assembly to change any of the existing circuit court districts through redistricting or by providing additional judgeships shall be referred to the Senate Judiciary Committee if the bill is from the Senate or the House Judiciary Committee if the bill is from the House of Representatives.

(b) The Senate Judiciary Committee or House Judiciary Committee shall request a letter certifying whether or not the proposed change meets the criteria of the Arkansas Judicial Council which shall be certified by the Secretary-treasurer of the Arkansas Judicial Council.

(c) No bill to change any of the existing circuit court districts through redistricting or providing additional judgeships shall be acted upon in either committee until a letter certifying that the proposed change meets the criteria has been attached to the bill. Upon suspension of the Joint Rules of the House of Representatives and the Senate, a bill may be withdrawn from the House Judiciary Committee or Senate Judiciary Committee and acted upon without the certification of the council attached thereto.

History. Acts 1989, No. 864, § 4.

10-2-125. Employees and officers.

(a) The House Management Committee with the approval of the Speaker of the House of Representatives may employ at its discretion employees of the House of Representatives and may transfer or discharge any employee if it is deemed in the best interest of the House of Representatives.

(b)(1) The Senate Efficiency Committee at its discretion and subject to the approval of the Senate may employ, transfer, or discharge Senate employees if it is determined by the Senate Efficiency Committee to be in the best interest of the Senate.

(2) The actual salaries to be paid to employees of the Senate shall be determined by the Senate Efficiency Committee within the funds, appropriations, and maximum annual salaries as may be available.

History. Acts 1991, No. 1, § 2; 1991, No. 2, § 4; 1991, No. 30, §§ 7, 8; 1993, No. 671, § 7; 1995, No. 143, § 7; 2005, No. 693, § 8.

A.C.R.C. Notes. Acts 2001, No. 443, § 9, provided: "SENATE EMPLOYEES. The Senate Efficiency Committee may, at its discretion and subject to the approval of the Arkansas Senate, employ, transfer or discharge Arkansas Senate employees if it is determined by the committee to be in the best interest of the Arkansas Senate. The actual salaries to be paid to employees of the Arkansas Senate shall be determined by the Senate Efficiency Committee within the funds, appropriations

and maximum annual salaries as may be available."

Acts 2012, No. 59, § 10, provided: "SALARIES. In order that exceptionally well-qualified personnel may be recruited and retained, the Senate may exceed the maximum salary levels by no more than twenty percent (20%) for no more than one-third ($\frac{1}{3}$) of the positions authorized in their operation appropriation act, and may exceed the maximum salary levels for the purpose of merit adjustments for all positions."

Cross References. Appointment of officers and judging qualifications of members, Ark. Const., Art. 5, § 11.

10-2-126. Assistant to the President Pro Tempore of the Senate.

(a) The Assistant to the President Pro Tempore of the Senate shall be under the direction of the President Pro Tempore of the Senate.

(b) The amount of salary to be paid to the assistant shall be determined by the Senate Efficiency Committee.

History. Acts 1993, No. 1, § 2.

10-2-127. Fiscal impact statement.

(a)(1) As used in this section, unless the context otherwise requires, "fiscal impact statement" means a realistic written statement of the purpose of a proposed law, or a regulation promulgated under a law, and the estimated financial cost to the state or any local school district of implementing or complying with the proposed law or regulation.

(2) The fiscal impact statement shall be developed by the Office of Economic and Tax Policy with the assistance of the Department of Education within the guidelines adopted by the House Committee on Education and the Senate Committee on Education, as applicable.

(b) Any bill filed in the House of Representatives or Senate that will impose a new or increased cost obligation for education in grades kindergarten through twelve (K-12) on the State of Arkansas or any local school district shall have a fiscal impact statement attached to it prepared and filed with the chair of the committee to which the bill is referred:

(1) At least three (3) days before the bill may be called up for final action in the committee during a regular session of the General Assembly;

(2) At least three (3) days before the bill may be called up for final action in the committee during a fiscal session; and

(3) At least one (1) day before the bill may be called up for final action in the committee during a special session of the General Assembly.

(c)(1)(A) If any such House or Senate bill is called up for final passage in the House or Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, any member of the House or Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the House or Senate at least one (1) day prior to the bill's being called up for final passage.

(B) An affirmative vote of two-thirds ($\frac{2}{3}$) of a quorum present and voting shall override the objection.

(2) If an objection is made without override, the presiding officer of the House or Senate shall cause the bill to be referred to the office for the preparation of a fiscal impact statement which shall be filed with the presiding officer not later than five (5) days from the date of the request.

History. Acts 1995, No. 1253, §§ 1, 3; Acts 1995, No. 1253, § 3 is also codified as 2003 (2nd Ex. Sess.), No. 14, § 1; 2009, § 19-1-703. No. 962, § 14.

Publisher's Notes. Acts 1995, No. 1253, § 1, is also codified as § 19-1-701. **Amendments.** The 2009 amendment inserted present (b)(2) and redesignated the following subdivision accordingly.

10-2-128. Observance of Dr. Martin Luther King, Jr. holiday.

In respect to Dr. Martin Luther King, Jr., and in observance of his birthday, neither the House of Representatives nor the Senate shall convene in session nor shall any of their committees meet on the third Monday in January.

History. Acts 1999, No. 306, § 1.

10-2-129. Drafting and information requests to legislative employees.

(a) As used in this section:

(1) "Legislative employee" means an employee of the House of Representatives, the Senate, the Bureau of Legislative Research, the

Division of Legislative Audit, and the Arkansas Code Revision Commission; and

(2) "Legislator" means any member of the General Assembly or a member-elect of the General Assembly.

(b)(1) A drafting request or information request made to a legislative employee by or on behalf of a legislator is confidential.

(2) The identity of the legislator making the request, except to the extent necessary to fulfill the request, and the existence of the request shall not be revealed to any person who is not a legislative employee without the consent of the legislator.

(c)(1) Any supporting documents submitted or caused to be submitted to a legislative employee by a legislator in connection with a drafting or information request are confidential.

(2) Except to the extent necessary to fulfill the request, the document, copies of the document, or the identity of the person, firm, or association producing it shall not be provided to any person who is not a legislative employee without the consent of the legislator.

(d) Unless made public by the legislator, a drafting request, information request, supporting documents, and the drafts or the work product for a drafting request or information request are not public records under § 25-19-103.

(e)(1) The Legislative Council may authorize the staff of the bureau to provide assistance to state agencies and constitutional officers in preparing legislation.

(2) If the Legislative Council authorizes the staff of the bureau to provide assistance to state agencies and constitutional officers in preparing legislation, the request, supporting documents, working papers, and drafts in the possession of the bureau are confidential and are not public records under § 25-19-103.

(f) Nothing in this section prohibits a legislative employee from working on similar or identical drafting requests or information requests from more than one (1) legislator.

History. Acts 2005, No. 1559, § 1.

A.C.R.C. Notes. Acts 2005, No. 1260, § 1 provides in part that, effective July 1, 2005, employees of the Arkansas Code

Revision Commission are transferred to the Bureau of Legislative Research and shall be employees of the bureau.

10-2-130. Use of education studies commissioned by General Assembly.

(a)(1) Any cost study analysis, cost study audit, adequacy study, or other study commissioned or funded by the General Assembly concerning the state's education system and any conclusion or recommendation resulting from a cost study analysis, cost study audit, adequacy study, or other study concerning the state's education system is not binding upon the General Assembly.

(2) The General Assembly may reject at any time any analysis, audit, or study and any conclusion or recommendation resulting from an analysis, audit, or study concerning the state's education system.

(b) A cost study analysis, cost study audit, adequacy study, or other study concerning the state's education system shall include, but is not limited to:

(1) Studies conducted under § 10-3-2101 et seq. and Acts 2003, No. 1181 [expired]; and

(2) Any study concerning the adequacy or equitability of the state's education system, including, but not limited to, the state's method of funding public school districts.

History. Acts 2006 (1st Ex. Sess.), No. 37, § 1.

10-2-131. Internet broadcast of proceedings.

(a) During regular sessions, fiscal sessions, and special sessions of the General Assembly, the House of Representatives and the Senate may broadcast live audio and video of their proceedings on the Internet.

(b) This requirement includes only proceedings held in the House Chamber and the Senate Chamber.

History. Acts 2007, No. 875, § 1; 2009, No. 962, § 15.

A.C.R.C. Notes. Acts 2007, No. 875, § 2, provided: "This act shall apply beginning with the 2009 Regular Session of the

General Assembly."

Amendments. The 2009 amendment added the subsection designations; and inserted "sessions, fiscal sessions" following "regular" in (a).

SUBCHAPTER 2 — COMPENSATION AND EXPENSES

SECTION.

10-2-201. Payment of salaries.

10-2-202. Salary of deceased member.

10-2-203 — 10-2-210. [Reserved.]

10-2-211. [Repealed.]

10-2-212. Reimbursable expenses.

10-2-213, 10-2-214. [Repealed.]

10-2-215. Additional compensation for committee chairs, vice chairs, and cochairs.

10-2-216. Reimbursement for legislative services personnel.

10-2-217. Compensation for members of interim committees and for performance of other interim duties.

SECTION.

10-2-218. [Repealed.]

10-2-219, 10-2-220. [Reserved.]

10-2-221. Contingent expenses.

10-2-222. Printing, stationery, and supplies.

10-2-223. Authorization to meet during legislative recess — Compensation.

10-2-224. Compensation for attendance at national or regional conferences.

10-2-225. Funds.

Cross References. Compensation for attending meetings and conferences, §§ 10-3-209 — 10-3-212.

No expense authorized except by bill duly passed and signed by Governor, Ark. Const., Art. 5, § 41 [as added to Art. 5 by

Ark. Const. Amend. 19].

Effective Dates. Acts 1921, No. 115, § 4: Feb. 12, 1921. Emergency declared.

Acts 1961, No. 112, § 2: Feb. 17, 1961. Emergency clause provided: "It is hereby found and determined by the General Assembly that the appropriation for the payment of salaries of the members of the General Assembly for the current biennial period will expire on June 30, 1961; that the payment of the unpaid portion of the salaries due widows or next of kin of deceased members of the Sixty-Second General Assembly under the provision of this act will have to be paid on or before June 30, 1961 if the same is to be paid from the current appropriation; and that the immediate passage of this act is necessary to make such payment. Therefore, an emergency is hereby declared to exist and this act, immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1963, No. 259, §§ 3, 4: effective retroactive to Feb. 1, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law relative to the payment of the salary of deceased members of the General Assembly to the survivors of such members is limited to widows, children and next of kin, and that no provision is made for the payment of the same to surviving husbands of deceased members, and that this law is immediately necessary to correct this situation. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval." Approved March 18, 1963.

Acts 1975, No. 169, § 5: July 1, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the maximum allowable expense reimbursement provided in Act 274 of 1971 for expenses incurred by members of the General Assembly in carrying out their official duties during the interim is inadequate to permit proper reimbursement of members of the General Assembly for their actual expenses incurred in the performance of their duties; that it is essential to the effective and efficient ad-

ministration of the legislative affairs of the state that the maximum monthly reimbursement authorization be increased effective July 1, 1975; that unless an emergency is declared, an extension of the Regular Session of the General Assembly might result in this act not becoming effective on July 1, 1975. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1975."

Acts 1985, No. 187, § 4: Feb. 26, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the laws of this state governing the per diem to be paid to members of the General Assembly for attendance at various interim committee meetings have been enacted at several legislative sessions, and there is a lack of uniformity in the per diem allowances for members of the General Assembly for attending meetings of a number of said interim committees, and that the immediate passage of this act is necessary in order to establish a uniform per diem allowance for members of the General Assembly who attend meetings of joint interim committees, or for performance of other legislative duties as authorized by law. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 935, § 17: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1987.”

Acts 1989 (1st Ex. Sess.), No. 3, § 17: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1989 (1st Ex. Sess.), No. 116, § 15: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Acts 1989 (1st Ex. Sess.), No. 143, § 18: June 23, 1989. Emergency clause provided: “It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Seventh General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist, and this Act shall take effect and be in full

force from and after its passage and approval.”

Acts 1989 (1st Ex. Sess.), No. 204, § 16: June 23, 1989. Emergency clause provided: “It is hereby determined that matters vitally affecting the welfare of the State of Arkansas must be dealt with by the Seventy-Seventh General Assembly, and this Act being necessary for the preservation of the peace, health and safety of the people of the State of Arkansas, an emergency is hereby declared to exist and this Act shall take effect and be in full force from and after its passage and approval.”

Acts 1991, No. 7, § 19: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991.”

Acts 1991, No. 30, § 14: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1991.”

Acts 1991, No. 969, § 11: Jan. 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991.”

Acts 1991, No. 1240, § 11: Jan. 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991.”

Acts 1995, No. 1312, § 36: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being neces-

sary for the immediate preservation of the public peace, health and safety, Sections 9 as added by House Amendment 1, 12 as added by House Amendment 4, and 15 through 19 as added by House Amendment 10 shall be in full force and effect from and after the date of passage and approval and the remainder of the act shall be in full force and effect from and after July 1, 1995.”

Acts 1997, No. 1285, § 32: July 1, 1997. Emergency clause provided: “It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety Section 10 of this act shall be in full force and effect from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Section 10 shall become effective on the expiration of the period of time during which the governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 10 shall become effective on the date the last house overrides the veto. The remaining sections of this act shall become effective from and after July 1, 1997.”

Acts 2003, No. 744, § 4: became law without the Governor's signature. Noted Mar. 27, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Eighty-Fourth General Assembly will not be able to complete its business without entering into an extended recess to enable its various committees to meet, study, and report on some important issues facing the General Assembly; that under present law, many of the committees are authorized to meet and receive reimbursement for expenses incurred in attending committee meetings

only during the interim between sessions of the General Assembly and not during a recess; that this act is designed to permit committees to meet and conduct business during an extended recess of the General Assembly and should be given effect immediately to enable committees to meet and give the General Assembly the benefit of their findings and recommendations before the General Assembly reconvenes after the extended recess. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2100, § 22: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

Acts 2007, No. 288, § 4: effective retroactively to March 1, 2007.

Acts 2007, No. 288, § 5: March 16, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the amount of legislative expense reimbursement, in lieu of per diem payments, and compensation for chairs and cochairs has not been updated in several years; that this act adjusts the payments for inflation factors; and that this act is immediately necessary in order to provide payments at the corrected amounts. Therefore, an emergency is declared to exist and this act

being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 2, § 6: Jan. 15, 2009. Emergency clause provided: "It is found and determined by the General Assembly, that the House of Representatives of the 87th General Assembly convenes in regular session on January 12, 2009; that expenses of the session begin immediately; and that the expenses are a just expense of state which must be paid at the time the services are provided. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2011, No. 1, § 6: Jan. 19, 2011. Emergency clause provided: "It is found and determined by the General Assembly that the Arkansas Senate of the 88th General Assembly convenes in regular session on January 10, 2011; that expenses of the session begin immediately; and that the expenses are a just expense of the state which must be paid at the time the services are provided. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES**Am. Jur.** 72 Am. Jur. 2d, States, § 56.**C.J.S.** 81A C.J.S., States, §§ 46, 47.**10-2-201. Payment of salaries.**

(a)(1) The annual salaries of members of the Senate and the House of Representatives established by law shall be payable in equal monthly installments from funds appropriated for that purpose.

(2) The Auditor of State is designated as disbursing officer of funds appropriated for payment of salaries of members of the General Assembly.

(3) The provisions of this subsection shall not apply to any per diem, mileage, or other allowances payable to members of the General Assembly, and the per diem, mileage, or other allowances shall be payable in the manner prescribed by law.

(b) The salaries which are due the members and officers of the General Assembly shall be certified by the President of the Senate and the Speaker of the House of Representatives, respectively, to the Auditor of State, who shall issue his or her warrant therefor on the Treasurer of State, which shall be paid out of any moneys in the State Treasury not otherwise appropriated.

History. Acts 1836, § 4, p. 46; C. & M. Dig., § 4958; Pope's Dig., § 6188; Acts 1959, No. 6, § 1; A.S.A. 1947, § 4-157.

10-2-202. Salary of deceased member.

(a) The Auditor of State is authorized and directed to pay to the surviving spouse, or if there is no surviving spouse then to the surviving children, or if there is no surviving spouse or children then to the next of kin of any member of the General Assembly who shall die before the expiration of his or her elected term, the monthly salary of the deceased member due and payable from the time of death to:

(1) The expiration of the deceased member's term; or

(2) Until the deceased member's successor shall have been elected and qualified.

(b) The payment shall be made monthly and shall be payable from the funds appropriated for the payment of legislative salaries.

History. Acts 1961, No. 112, § 1; 1963, No. 259, § 1; A.S.A. 1947, § 4-158.

10-2-203 — 10-2-210. [Reserved.]

10-2-211. [Repealed.]

Publisher's Notes. This section, concerning interim services of General Assembly members and public policy, was repealed by identical Acts 1991, Nos. 969

and 1240, § 10. The section was derived from Acts 1971, No. 274, § 1; A.S.A. 1947, § 4-138.

10-2-212. Reimbursable expenses.

(a)(1) A member of the Senate may seek reimbursement for legislative expenses incurred as authorized by law by filing a signed statement of expenses incurred during each calendar month. Claims for reimbursement for expenses incurred shall be filed with the Secretary of the Senate and shall be paid from the funds appropriated for such purposes for the use of the Senate.

(2) The Senate Efficiency Committee is hereby authorized to establish the method of reimbursing members of the Senate for ordinary and necessary expenses incurred in the performance of their duties as members of the General Assembly. The Senate Efficiency Committee shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, which expenditures constitute ordinary and necessary expenses and the amount of per diem and mileage reimbursement to be paid from Senate appropriations.

(3) Subsection (a) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(b)(1) A member of the House of Representatives may seek reimbursement for legislative expenses incurred as authorized by law by filing a signed statement of expenses incurred during each calendar month. Claims for reimbursement for expenses incurred shall be filed with the Coordinator of House Legislative Services and shall be paid from the funds appropriated for such purposes for the use of the House.

(2)(A) The Speaker of the House of Representatives is hereby authorized to establish the method of reimbursing members of the House for ordinary and necessary expenses incurred in the performance of their duties as members of the General Assembly. The Speaker of the House of Representatives shall determine, within the limitations of the Arkansas Constitution and Internal Revenue Service guidelines, which expenditures constitute ordinary and necessary expenses and the amount of per diem and mileage reimbursement to be paid from House appropriations.

(B) The Speaker of the House of Representatives shall notify the House disbursing officer regarding the actions of the Speaker of the House of Representatives under this subsection.

(3) Subsection (b) of this section does not apply to per diem, mileage, and expense reimbursements paid from funds disbursed by the Legislative Auditor or the Director of the Bureau of Legislative Research.

(c) Except as otherwise provided by law, the maximum amount of reimbursement for legislative expenses incurred by members of the

General Assembly shall be, at the option of each member, either five thousand eight hundred twenty dollars (\$5,820) per year, six thousand five hundred forty dollars (\$6,540) per year, or fourteen thousand four hundred dollars (\$14,400) per year.

(d)(1) Any member of the General Assembly may elect not to receive per diem and mileage payments for attending legislative sessions and for attending legislative activities and in lieu thereof be reimbursed up to an additional ten thousand two hundred dollars (\$10,200) per year.

(2) Such election shall be made in writing to the presiding officer of the legislative body to which the member is elected.

(3)(A) The election must occur prior to the fifth day of a regular session, and the election shall remain in effect until a subsequent election is made at the next regular session.

(B) However, if the maximum amount of reimbursement is altered by law, the member of the General Assembly shall make the election within thirty (30) days after the law becomes effective, and the election shall remain in effect until a subsequent election is made at the next regular session.

(e) No member of the General Assembly shall file with the House or Senate claims for reimbursement for expenses in excess of the maximum amount prescribed by law.

History. Acts 1971, No. 274, § 2; 1975, No. 169, § 1; A.S.A. 1947, § 4-139; Acts 1991, No. 969, § 1; 1991, No. 1240, § 1; 1995, No. 1312, §§ 12, 22; 1997, No. 1285, §§ 14, 19; 2007, No. 288, § 1, 2.

A.C.R.C. Notes. As enacted, subdivision (d)(3) provided that an election not to receive per diem and mileage payments must occur prior to "adjournment of the 1991 regular session and prior to" the fifth day of the "succeeding" regular sessions.

Acts 2007, No. 288, § 4, provided: "This act shall apply retroactively to March 1, 2007."

Amendments. The 2007 amendment substituted "fourteen thousand four hundred dollars (\$14,400)" for "nine thousand six hundred dollars (\$9,600)" in (c); and in (d), substituted "ten thousand two hundred dollars (\$10,200)" for "six thousand eight hundred dollars (\$6,800)" in (1), and added (3)(B) and made a related change.

CASE NOTES

Constitutionality.

As the constitutional amendment delineating the compensation of legislators contains no prohibition of additional compensation, this section and §§ 10-2-211 (repealed) and 10-2-213 (repealed), giving

them allowances during the interim period between legislative sessions, are constitutional. *Jones v. Mears*, 256 Ark. 825, 510 S.W.2d 857 (1974) (decided under Const. Amend. 37, now see Const. Amend. 56).

10-2-213, 10-2-214. [Repealed.]

Publisher's Notes. These sections, concerning reimbursement for interim and regular and extraordinary sessions expenses, were repealed by identical Acts 1991, Nos. 969 and 1240, § 10. The sections were derived from the following sources:

10-2-213. Acts 1971, No. 274, § 3; 1975,

No. 169, § 2; 1983, No. 52, § 1; 1983, No. 933, § 11; A.S.A. 1947, §§ 4-140, 4-140.1; Acts 1989 (1st Ex. Sess.), No. 3, § 11.

10-2-214. Acts 1987, No. 1, § 5; 1987, No. 2, § 5; 1987, No. 935, § 13; 1989 (1st Ex. Sess.), No. 143, § 5; 1989 (1st Ex. Sess.), No. 204, § 5.

10-2-215. Additional compensation for committee chairs, vice chairs, and cochairs.

(a)(1) In addition to the expense allowance provided by § 10-2-212 and all laws amendatory and supplemental thereto, the chair of each of the standing, select, and joint committees of either house of the General Assembly, the cochairs of the Legislative Council and the chairs of each subcommittee of the Legislative Council, the cochairs of the Legislative Joint Auditing Committee and the chairs of each subcommittee of the Legislative Joint Auditing Committee, the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives, the President Pro Tempore of the Senate, the President Pro Tempore Designate of the Senate, the House and Senate chairs of the Review/PEER Subcommittee of the Joint Budget Committee, the Personnel Subcommittee of the Joint Budget Committee, the Claims Subcommittee of the Joint Budget Committee, and the Special Language Subcommittee of the Joint Budget Committee, and the cochair of any committee of the General Assembly which does not function during the legislative session shall be eligible to receive an additional three thousand six hundred dollars (\$3,600) per year.

(2)(A) In addition to the expense allowance provided by § 10-2-212, the House vice chair of each of the standing, select, and joint committees and the House vice chair of the Legislative Council is eligible to receive two thousand four hundred dollars (\$2,400) per year.

(B) If a member of the House is eligible to receive payment under this subdivision (a)(2) due to service in more than one (1) covered position, the member shall be eligible to receive three thousand six hundred dollars (\$3,600) per year.

(3) The chair of each subcommittee of each standing committee of either house shall be eligible to receive an additional one thousand eight hundred dollars (\$1,800) per year. If a member of the General Assembly is eligible to receive payment under this subdivision (a)(3) due to service in more than one (1) covered position, the member shall be eligible to receive three thousand six hundred dollars (\$3,600) per year.

(4) No member of the General Assembly shall receive more than three thousand six hundred dollars (\$3,600) per year under this section.

(b) This additional allowance shall be paid from the same funds and appropriation and in the same manner as provided for the allowances authorized by § 10-2-212 and all laws amendatory and supplemental thereto.

(c) The chair of a committee established by rule of the House also may receive an allowance under subsection (a) of this section if authorized by rule of the House.

History. Acts 1987, No. 935, § 13; 1989 § 12; 1991, No. 969, § 3; 1991, No. 1240, (1st Ex. Sess.), No. 3, § 12; 1991, No. 7, § 3; 1995, No. 1312, § 15; 1997, No. 1285,

§ 16; 2005, No. 2100, § 14; 2007, No. 288, § 3; 2009, No. 2, § 5; 2009, No. 84, § 1; 2009, No. 248, § 1; 2011, No. 1, § 3.

A.C.R.C. Notes. Former § 10-2-215, concerning additional compensation for committee chairmen and cochairmen, is deemed to be superseded by this section. The former section was derived from Acts 1985, No. 273, § 13; A.S.A. 1947, § 4-140.2.

As amended by Acts 1995, No. 1312, § 15, subsection (a) ended: "Provided however, the House chairperson of the Review/PEER Subcommittee and the Personnel Subcommittee of the Joint Budget Committee shall commence receiving the additional allowance during the month when presession budget hearings begin prior to the 1997 Regular Session."

Acts 2007, No. 288, § 4, provided: "This act shall apply retroactively to March 1, 2007."

Pursuant to Acts 2009, No. 248, § 5, the amendment of § 10-2-215 by Acts 2009, No. 248, § 1, is superseded by the amendment of § 10-2-215 by Acts 2009, Nos. 2 and 84.

Amendments. The 2007 amendment, in (a), divided and the introductory paragraph as (1) and (2), in (2) inserted "the chairs of each subcommittee of Legislative Council," "and the chairs of each subcommittee of Legislative Joint Auditing Committee," "president Pro Tempore Designate," and "and Senate," and substituted

"three thousand six hundred dollars (\$3,600)" for "two thousand four hundred dollars (\$2,400)", in (2), substituted "one thousand eight hundred dollars (\$1,800)" for "one thousand two hundred dollars (\$1,200)" and added the second sentence, added (3), and made related changes.

The 2009 amendment by No. 2, in (a), inserted "the Speaker of the House of Representatives, the Speaker Pro Tempore of the House of Representatives" in (a)(1), inserted (a)(2), redesignated the remaining subdivisions accordingly, changed an internal section reference in (a)(3), and made related changes.

The 2009 amendment by No. 84 added (c).

The 2009 amendment by No. 248 rewrote (a) and redesignated its provisions as (a) through (c); in (b)(1), substituted "of the General Assembly is" for "shall be," deleted "an additional" following "to receive," and added "in addition to the expense allowance provided by § 10-2-212"; in (b)(2), added "in addition to the expense allowance provided in § 10-2-212" and made minor stylistic changes; in (d), inserted "provided by this section" following "allowance," deleted "and all laws amendatory and supplemental thereto" from the end and made minor stylistic changes.

The 2011 amendment inserted "the President Pro Tempore of the Senate" and inserted "of the Senate" following "President Pro Tempore Designate" in (a)(1).

10-2-216. Reimbursement for legislative services personnel.

Due to the exacting and special duties of his or her office, the Coordinator of House Legislative Services/Parliamentarian/Administrative Assistant to the Speaker is to be reimbursed for allowable expenses in the same manner and amount as is authorized for members of the General Assembly by § 10-2-212.

History. Acts 1989 (1st Ex. Sess.), No. 143, § 14; 1989 (1st Ex. Sess.), No. 204, § 13; 1991, No. 30, § 13.

A.C.R.C. Notes. Former § 10-2-216, concerning reimbursement for Legislative

Services personnel and Senate Chief of Staff, is deemed to be superseded by this section. The former section was derived from Acts 1985, No. 2, § 13; 1987, No. 15, § 5.

10-2-217. Compensation for members of interim committees and for performance of other interim duties.

(a)(1) Members or alternate members serving as members of the interim committees of the General Assembly as defined in subsection (b) of this section and members of the General Assembly who shall

perform "other interim legislative duties as authorized by law" as defined in subsection (b) of this section shall be entitled to receive per diem and mileage reimbursement in the amount prescribed by the Legislative Council not to exceed the amount as prescribed by regulations of the Internal Revenue Service.

(2) However, members of the General Assembly shall not be entitled to per diem for attendance at regional or national meetings and seminars held outside the State of Arkansas, but in lieu thereof they shall be entitled to reimbursement for actual, reasonable, and necessary expenses for meals, lodging, transportation, and mileage, as authorized by law.

(b) As used in this section:

(1) "Interim committees of the General Assembly" means and includes:

(A) The Legislative Council, as established by § 10-3-301;

(B) The Legislative Joint Auditing Committee, as established by § 10-3-401;

(C) The respective interim committees of the General Assembly, established and authorized by § 10-3-203;

(D) The Joint Interim Committee on Legislative Facilities, as established by § 10-3-1101;

(E) The Joint Committee on Legislative Printing Requirements and Specifications, as established by § 10-3-602;

(F) The Joint Committee on Public Retirement and Social Security Programs, as established by § 10-3-701;

(G) The Joint Interim Committee on Energy, as established by § 10-3-820;

(H) The Joint Performance Review Committee, as established by § 10-3-901; and

(I) Any other interim committee of the General Assembly created by law; and

(2) "Other interim legislative duties as authorized by law" includes:

(A) Service by members of the General Assembly in connection with the legislative program of Boys State and Girls State, as authorized by § 10-2-121;

(B) Attendance by members and members-elect of the General Assembly at the biennial Institute of Legislative Procedure held preceding the convening of each regular session of the General Assembly, as authorized by law; and

(C) The performance of other interim legislative duties which are not specifically enumerated in this section, but for which per diem and mileage reimbursement is authorized by law.

(c) It is the intent of this section to establish uniform per diem and mileage allowances for attendance by members of the General Assembly at meetings of interim committees of the General Assembly and for performing other interim legislative duties as members of the General Assembly where authorized by law.

(d) The allowances provided in this section shall be in lieu of per diem and mileage allowances which otherwise may have been established by laws enacted prior to February 26, 1985.

History. Acts 1985, No. 187, §§ 1-3; 116, § 11; 1991, No. 969, § 4; 1991, No. A.S.A. 1947, §§ 4-1007.1, 4-1007.2, 1240, § 4.
4-1007.2n; Acts 1989 (1st Ex. Sess.), No.

10-2-218. [Repealed.]

Publisher's Notes. This section, concerning a transportation allowance for the President Pro Tempore of the Senate, was repealed by Acts 1993, No. 671, § 12. The section was derived from Acts 1989 (1st Ex. Sess.), No. 3, § 13.

10-2-219, 10-2-220. [Reserved.]

10-2-221. Contingent expenses.

(a) Each house shall control its own contingent expenses. When any account properly chargeable to the House of Representatives shall be adjusted and allowed according to the Rules of the House of Representatives, a certificate thereof shall be granted, signed by the Speaker of the House of Representatives, and attested by the Chief Clerk of the House of Representatives. When any account or demand for contingent expenses of the Senate shall be allowed, according to the Rules of the Senate, a certificate thereof shall be granted, signed by the President of the Senate and attested by the Secretary of the Senate.

(b) All joint and contingent expenses shall be controlled by the concurrent vote of both houses and shall be ascertained and adjusted according to their joint rules, and a certificate thereof shall be signed by the President of the Senate and countersigned by the Secretary of the Senate.

(c) Every certificate issued in accordance with the provisions of this section shall specify the amount due, on what account, and the fund out of which it is to be paid. The Auditor of State, on the delivery of any such certificate to him or her, shall draw his or her warrant therefor accordingly as in the case of other demands against the state.

History. Rev. Stat., ch. 90, §§ 13-15; C. §§ 6189 - 6191; A.S.A. 1947, §§ 4-506 — & M. Dig., §§ 4959 - 4961; Pope's Dig., 4-508.

CASE NOTES

In General.

This section is merely declaratory of an essential power of each house. Ashton v.

Ferguson, 164 Ark. 254, 261 S.W. 624 (1924).

10-2-222. Printing, stationery, and supplies.

(a) The Chief Clerk of the House of Representatives shall procure all printing, stationery, paper, and other necessary supplies for the use of

the House of Representatives and shall have the power to distribute them among the members.

(b) The Secretary of the Senate shall procure all printing, stationery, paper, and other necessary supplies for the use of the Senate and shall have the power to distribute them among the members thereof.

(c) The Chief Clerk of the House of Representatives and the Secretary of the Senate shall let all contracts for the articles enumerated in this section. Contracts shall be let to the lowest and best responsible bidder.

(d) The Chief Clerk of the House of Representatives and the Secretary of the Senate shall give notice by one (1) publication in a newspaper having a circulation in the State of Arkansas that contracts for the printing and supplies herein enumerated are to be let and that three (3) days from the date of publication of the newspaper all bids for the contracts of printing and for furnishing supplies will be opened to ascertain the best and lowest bid. No bid shall be opened sooner than three (3) days from the date of publication of the notice.

(e) All bids must be in writing and under seal.

History. Acts 1921, No. 115, §§ 1-3; lowest responsible bidder, Ark. Const. Pope's Dig., §§ 6182 - 6184; A.S.A. 1947, Amend. 54.
§§ 4-503 — 4-505.

State publications, § 25-18-201 et seq.

Cross References. Contracts given to

10-2-223. Authorization to meet during legislative recess — Compensation.

(a) The various committees of the General Assembly that are authorized to meet during the interim between legislative sessions are hereby authorized to meet during a recess of the General Assembly of two (2) weeks or more in duration.

(b) A member of the General Assembly attending meetings of his or her assigned committees or meetings of committees to which he or she is invited by the chair or chairs during the recess shall be entitled to mileage and per diem at the same rate and from the same sources as for attending committee meetings held after sine die adjournment of the General Assembly.

History. Acts 2003, No. 744, § 1.

became law without the Governor's signature.

Publisher's Notes. Acts 2003, No. 744

ture.

10-2-224. Compensation for attendance at national or regional conferences.

(a) When the General Assembly is in recess for a period of two (2) weeks or more, a member of the General Assembly is:

(1) Authorized to attend national or regional conferences under the same conditions as apply to the attendance at the conferences after sine die adjournment of the General Assembly; and

(2) Entitled to receive reimbursement from the same sources and under the same conditions for conferences occurring after sine die adjournment for:

(A) Reasonable and necessary expenses for:

(i) Travel;

(ii) Meals; and

(iii) Lodging; and

(B) Other authorized expenses.

(b)(1) A member of the General Assembly may travel to a national or regional conference by commercial airplane, private vehicle, or other approved method of transportation.

(2)(A) Reimbursement for out-of-state travel is the lesser rate of reasonable airfare or the established rate of private car mileage based on map mileage when driven.

(B) Travel authorized by a chair of a legislative committee shall also be subject to approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

(C) When the Speaker of the House of Representatives or the President Pro Tempore of the Senate provides the written authorization to travel, the Speaker of the House of Representatives or his or her designee or the President Pro Tempore of the Senate or his or her designee shall determine the amount of reimbursement in dollars and cents.

(3)(A) A member of the General Assembly who prefers to be reimbursed for travel to a national or regional conference by a mode of transportation other than private vehicle or commercial airplane shall submit a request for reimbursement to the Speaker of the House of Representatives or the President Pro Tempore of the Senate in a manner established respectively by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

(B) A member of the General Assembly who submits a request for reimbursement under subdivision (b)(3)(A) of this section shall be reimbursed at a rate documented in writing and approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

History. Acts 2003, No. 744, § 2; 2011, No. 48, § 1; 2011, No. 71, § 1.

Publisher's Notes. Acts 2003, No. 744 became law without the Governor's signature.

Amendments. The 2011 amendment by identical acts Nos. 48 and 71 added (b).

10-2-225. Funds.

Funds appropriated to the Bureau of Legislative Research for interim committee study expenses shall be available for use by interim committees meeting during an extended recess of the General Assembly as authorized in § 10-2-223.

History. Acts 2003, No. 744, § 3.

became law without the Governor's signature.

Publisher's Notes. Acts 2003, No. 744

SUBCHAPTER 3 — WITNESSES

SECTION.

10-2-301. Compelling attendance — Orders — Sentences.

10-2-302. [Repealed.]

10-2-303. Process — Issuance and execution.

10-2-304. Fees, costs, and expenses.

SECTION.

10-2-305. Depositions.

10-2-306. Administration of oaths by committee — Depositions — Perjury.

10-2-307. Subpoena by committee.

10-2-308. Interrogatories by committee.

Cross References. Powers of each house, Ark. Const., Art. 5, § 12.

Effective Dates. Acts 1875, No. 37, § 5: effective on passage.

RESEARCH REFERENCES

Am. Jur. 72 Am. Jur. 2d, States, § 48 et seq.

C.J.S. 81A C.J.S., States, § 56 et seq.

10-2-301. Compelling attendance — Orders — Sentences.

(a) The Senate and the House of Representatives meeting separately or in joint meeting may:

(1) Issue the necessary subpoenas and process to summon and compel a person to appear before them or a committee thereof;

(2) Carry into execution their orders and sentences; and

(3) Summon and compel the attendance of witnesses in as full a manner as a court of law and with like effect.

(b) A subpoena for a witness shall be issued at the request of:

(1) A member of the Senate or a member of the House with the majority support of the member's respective house;

(2) The President Pro Tempore of the Senate on behalf of the majority of the members of the Senate;

(3) The Speaker of the House of Representatives on behalf of the majority of the members of the House; and

(4) The party accused.

History. Rev. Stat., ch. 90, § 8; C. & M. Dig., § 4929; Pope's Dig., § 6151; A.S.A. 1947, § 4-201; Acts 2009, No. 1465, § 2.

Amendments. The 2009 amendment rewrote the section.

10-2-302. [Repealed.]

Publisher's Notes. This section, concerning requests for subpoenas, was repealed by Acts 2009, No. 1465, § 3. This

section was derived from Rev. Stat., ch. 90, § 9; C. & M. Dig., § 4930; Pope's Dig., § 6152; A.S.A. 1947, § 4-202.

10-2-303. Process — Issuance and execution.

(a) All process issued by the House of Representatives and subpoenas and other process for witnesses when attendance may be required in the House or before a committee of the House shall be under the hand of the Speaker of the House of Representatives and attested by the Chief Clerk of the House of Representatives.

(b) All process issued by the Senate shall be under the hand of the President Pro Tempore of the Senate and attested by the Secretary of the Senate.

(c) All process issued for a joint meeting of the Senate and the House shall be under the hand of the:

(1) Speaker of the House of Representatives and attested by the Chief Clerk of the House of Representatives if the process was requested by a member of the House or the Speaker of the House of Representatives; or

(2) President Pro Tempore of the Senate and attested by the Secretary of the Senate if the process was requested by:

(A) A member of the Senate;

(B) The President Pro Tempore of the Senate; or

(C) The party accused if the party accused is not a member of the House, a member of the Senate, the Speaker of the House of Representatives, or the President Pro Tempore of the Senate.

History. Rev. Stat., ch. 90, § 10; C. & M. Dig., § 4931; Pope's Dig., § 6153; A.S.A. 1947, § 4-203; Acts 2009, No. 1465, § 4.

Amendments. The 2009 amendment rewrote (a) and (b); and added (c).

10-2-304. Fees, costs, and expenses.

(a) Every witness attending either house or a committee thereof or a joint meeting of both houses, being summoned, shall be allowed the same fees as allowed by law to witnesses for their attendance in any court, to be paid as other costs.

(b) The fees of all officers and witnesses before either house, or a joint meeting, and all other costs and expenses arising therein, shall be paid out of the contingent fund of the house in which the proceedings may be had or if had in a joint meeting of both houses, then out of the contingent fund of the General Assembly unless the party charged be adjudged to pay the costs and expenses, in which case he or she shall pay them, and payment may be enforced by attachment.

History. Rev. Stat., ch. 90, §§ 11, 12; C. §§ 6154, 6155; A.S.A. 1947, §§ 4-204, & M. Dig., §§ 4932, 4933; Pope's Dig., 4-205.

10-2-305. Depositions.

(a) In cases not otherwise provided for by law, depositions may be taken and read in either house or before a committee thereof, or before both houses in joint meeting, in all cases in which the taking and

reading of depositions would be allowed in any cause pending before a court of law.

(b) When necessary, the presiding officer of the house in which they may be required or of a joint meeting may issue commissions to take such depositions.

(c) The proceedings in taking and returning depositions shall be the same as may be prescribed by law for taking depositions to be read in a court of law.

History. Rev. Stat., ch. 90, §§ 6, 7; C. & M. Dig., §§ 4927, 4928; Pope's Dig., §§ 6149, 6150; A.S.A. 1947, §§ 4-206, 4-207.

10-2-306. Administration of oaths by committee — Depositions — Perjury.

(a) The chair or a member at any time acting as chair of a committee of either house of the General Assembly or joint committee of the two (2) houses of the General Assembly, or his or her designee, when the committee is empowered to issue subpoenas for persons, papers, or records, shall be fully empowered to administer oaths and to take depositions for the purpose for which the committee or joint committee is empowered to issue subpoenas for persons, papers, or records.

(b)(1) If a person subpoenaed to appear before the Senate, the House of Representatives, or a Senate or House committee or joint interim committee fails to appear or produce subpoenaed material, the fact of the refusal to appear or produce subpoenaed material shall be certified to the circuit court of the county in which the hearing is held.

(2) The circuit court shall punish the person for contempt of the General Assembly under subdivision (b)(1) of this section in the same manner as punishment for contempt is imposed for failure to respond to a subpoena or directive of the circuit court.

(c) A person who is administered the oath and who provides false testimony while under oath is guilty of perjury and subject to the penalties prescribed by law.

History. Acts 1875, No. 37, § 1, p. 113; C. & M. Dig., § 4944; Pope's Dig., § 6166; A.S.A. 1947, § 4-208; Acts 2009, No. 1465, § 5.

Amendments. The 2009 amendment rewrote the section.

Cross References. Perjury, § 5-53-102.

10-2-307. Subpoena by committee.

The committee so empowered may issue its subpoena signed by its chair or acting chair for the attendance of witnesses and the production of papers or records, and the subpoena may be served by any officer authorized to serve process in civil cases.

History. Acts 1875, No. 37, § 2, p. 113; C. & M. Dig., § 4945; Pope's Dig., § 6167; A.S.A. 1947, § 4-209; Acts 2009, No. 1465, § 5.

Amendments. The 2009 amendment substituted "subpoena" for "summons" in the section heading and the section.

10-2-308. Interrogatories by committee.

(a) If in the discretion of the committee it is desirable to take the testimony of any witness without having the witness present, this may be done by reducing to writing the interrogatories to be proposed to the witness and forwarding them to any officer in this state authorized to administer oaths, and he or she is clothed with power and authorized to compel the attendance of the witness before him or her at a place to be by him or her designated by summons and attachment and to take the answer of the witness to the interrogatories, requiring the witness to subscribe and swear to the truthfulness of the interrogatories, which affidavit shall be certified by the officer.

(b) The usual fees allowed officers for taking depositions and witnesses for their attendance shall be allowed for the services authorized by this section, to be paid as other current expenses of the General Assembly. The fees shall not be demanded in advance.

History. Acts 1875, No. 37, § 3, p. 113;
C. & M. Dig., § 4946; Pope's Dig., § 6168;
A.S.A. 1947, § 4-210.

SUBCHAPTER 4 — LOBBYISTS

SECTION.

10-2-401 — 10-2-404. [Repealed.]

10-2-401 — 10-2-404. [Repealed.]

Publisher's Notes. This subchapter, concerning lobbyists, was repealed by Acts 1989, No. 851, § 1. The subchapter was derived from the following sources:

10-2-401. Acts 1967, No. 162, § 1;
A.S.A. 1947, § 4-801.

10-2-402. Acts 1967, No. 162, § 2;
A.S.A. 1947, § 4-802.

10-2-403. Acts 1967, No. 162, § 3;
A.S.A. 1947, § 4-803.

10-2-404. Acts 1967, No. 162, § 4;
A.S.A. 1947, § 4-804.

SUBCHAPTER 5 — BILLS, RESOLUTIONS, AND AMENDMENTS

SECTION.

10-2-501. Preparation.

Effective Dates. Acts 2003, No. 1725, § 2: Apr. 22, 2003. Emergency clause provided: "It is found and determined by the General Assembly that our present state of technology makes it possible for members of the General Assembly to more readily communicate with staff; that past procedures for preparation of documents for the General Assembly are antiquated and in some instances produce unintended results; that this act will provide the staff with necessary guidance; and

that this act must go into effect as soon as possible in order to enhance the legislative process. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; (3) If the bill is vetoed by the Gover-

nor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 493, § 3: Mar. 2, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the current law concerning preparation of legislation by the Bureau of Legislative Research is too restrictive and impairs the function of the General Assembly; that this act corrects deficiencies in the law; and that this act is immediately necessary in order to assist the operations of the 2005 regular

session of the General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

10-2-501. Preparation.

(a) A member of the General Assembly may choose to impose the restrictions of subsection (b) of this section by filing written notice with the Director of the Bureau of Legislative Research.

(b) If requested in writing by a member of the General Assembly, the staff of the Bureau of Legislative Research shall not:

(1) Draft any bill, resolution, or amendment for the member pursuant to the instructions of a lobbyist registered under § 21-8-601 without the prior direct approval of the member;

(2) List the name of the member on any bill, resolution, or amendment pursuant to the instructions of a lobbyist registered under § 21-8-601 without the prior direct approval of the member; or

(3) On a bill, resolution, or amendment of which the member is the lead sponsor, establish the order of cosponsors pursuant to the instructions of a lobbyist registered under § 21-8-601 without the prior direct approval of the lead sponsor.

(c) The prior direct approval requirement of this section is met when a senator or representative communicates authorization to the staff of the bureau by telephone, electronic mail, fax, other written document, or in person.

History. Acts 2003, No. 1725, § 1; 2005, No. 493, § 1.

Cross References. Disclosure by lobbyists, § 21-8-601 et seq.

CHAPTER 3

COMMITTEES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. INTERIM COMMITTEES GENERALLY.
3. LEGISLATIVE COUNCIL.
4. LEGISLATIVE JOINT AUDITING COMMITTEE.
5. JOINT BUDGET COMMITTEE.
6. JOINT COMMITTEE ON LEGISLATIVE PRINTING REQUIREMENTS AND SPECIFICATIONS.
7. RETIREMENT COMMITTEES.

SUBCHAPTER

8. ENERGY COMMITTEES.
9. JOINT PERFORMANCE REVIEW COMMITTEE.
10. COMMITTEES ON EDUCATION.
11. JOINT INTERIM COMMITTEE ON LEGISLATIVE FACILITIES.
12. ARKANSAS COMMUNICATIONS STUDY COMMITTEE. [REPEALED.]
13. SENATE INTERIM COMMITTEE ON CHILDREN AND YOUTH.
14. OFFICE OF ECONOMIC AND TAX POLICY.
15. DESEGREGATION LITIGATION — LEGISLATIVE OVERSIGHT.
16. JOINT INTERIM OVERSIGHT COMMITTEE ON EDUCATION REFORM.
17. JOINT COMMITTEE ON ADVANCED COMMUNICATIONS AND INFORMATION TECHNOLOGY.
18. COMMITTEE ON ADVANCED COMMUNICATIONS AND INFORMATION TECHNOLOGY.
19. ARKANSAS STATE GAME AND FISH COMMISSION OVERSIGHT COMMITTEE.
20. JOINT INTERIM COMMITTEE ON HEALTH INSURANCE AND PRESCRIPTION DRUGS. [REPEALED.]
21. CONTINUING ADEQUACY EVALUATION ACT OF 2004.
22. ACADEMIC FACILITIES OVERSIGHT COMMITTEE.
23. ARKANSAS LEGISLATIVE TASK FORCE ON ABUSED AND NEGLECTED CHILDREN ACT.
24. ARKANSAS LEGISLATIVE TASK FORCE ON HIGHER EDUCATION REMEDIATION, RETENTION, AND GRADUATION RATES. [REPEALED.]
25. ARKANSAS CYBERINFRASTRUCTURE TASK FORCE ACT.
26. ARKANSAS LEGISLATIVE TASK FORCE ON AUTISM ACT.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-16 and 19 may not apply to subchapters 17, 18, and 20, which were enacted subsequently.

RESEARCH REFERENCES

Am. Jur. 72 Am. Jur. 2d, States, § 50 et seq. **C.J.S.** 81A C.J.S., States, § 55.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

10-3-101. Presession assignment of regular standing committees.

SECTION.

10-3-102. Presession meetings.

10-3-101. Presession assignment of regular standing committees.

The presession assignments of members of regular standing Senate and House of Representatives committees and the designation of committee chair and vice chair shall be made in the Senate pursuant to the Rules of the Senate and in the House by the Speaker-elect of the House of Representatives as soon as is feasible after each biennial general election.

History. Acts 1973, No. 208, § 1; A.S.A. 1947, § 4-143; Acts 2001, No. 627, § 1.

10-3-102. Presession meetings.

(a) The Senate and House of Representatives standing committees appointed after the biennial general election as provided in § 10-3-101 are authorized to meet during the months of December and January

prior to the convening of the General Assembly for the purpose of taking under consideration prefiled bills assigned to the various committees and for the purpose of holding hearings on those bills. No final committee recommendations shall be made on any bills prefiled and submitted to the various committees until after the General Assembly is convened in session.

(b) Members of Senate and House standing committees attending presession committee meetings as authorized in this section shall be entitled to receive per diem and mileage for attending the meetings.

History. Acts 1973, No. 208, § 2; A.S.A. 1947, § 4-144.

SUBCHAPTER 2 — INTERIM COMMITTEES GENERALLY

SECTION.

- 10-3-201. Legislative findings.
- 10-3-202. Purpose and intent.
- 10-3-203. Interim committees established — Members — Jurisdiction.
- 10-3-204. Interim committee chairs.
- 10-3-205. Staff — Assignment and duties.
- 10-3-206. Meetings.
- 10-3-207. Ad hoc subcommittees and citizen advisory panels.
- 10-3-208. Subpoenas.
- 10-3-209. Expenses of members.
- 10-3-210. Attendance at regional or national conferences — Reimbursement of expenses.
- 10-3-211. Function during recess — Compensation.
- 10-3-212. Rules Committee of the Senate and Rules Committee of the House of Representatives — Meetings — Compensation.

SECTION.

- 10-3-213. Requests for and receipt of information — Continuing studies — Agency assistance.
- 10-3-214. Committee studies — Duties of Legislative Council — Reports and findings.
- 10-3-215. Study expenses.
- 10-3-216. Duties of Legislative Joint Auditing Committee.
- 10-3-217. Proposed bills — Filing — Action by committee.
- 10-3-218. Budget hearings — Attendance by members of the General Assembly.
- 10-3-219. Purpose of §§ 10-3-217 and 10-3-218.
- 10-3-220. Monitoring of changes made in federal income tax laws and regulations — Reports of director.

A.C.R.C. Notes. Acts 1995 (1st Ex. Sess.), No. 10, § 16, provided: “Nothing in this act shall affect any statutorily created subcommittee of a joint interim committee.”

Effective Dates. Acts 1973, No. 810, § 4: Apr. 16, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that in the event it is necessary for the General Assembly to recess for a period in excess of seven calendar days, the members of the House and Senate will incur expenses during such recess for performing the duties of their office and should be allowed reim-

bursment for such expenses within the limitations prescribed in Act 274 of 1971; that if the General Assembly finds it necessary to recess for a period in excess of thirty days, it is essential that the Legislative Council, the Legislative Joint Auditing Committee and other interim committees be authorized to conduct their normal business during such recess; and that this act is immediately necessary to permit such committees to meet and to authorize the members of the General Assembly to receive reimbursement for expenses incurred during the recess. Therefore, an emergency is hereby de-

clared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 289, § 2: Mar. 3, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that each session of the General Assembly considers numerous bills proposing amendments, changes, or additions to the publicly supported retirement systems, and that due to the limitations of the time available during each Regular and Special Session, there are not sufficient opportunities to adequately study and review many aspects of the retirement systems that would be affected by such proposed legislation; and that the establishment of a Joint Interim Committee of the General Assembly to serve as an overview committee over the various retirement systems is essential to the proper functioning of the General Assembly; and that the immediate passage of this act is necessary in order to establish the Joint Interim Committee on Public Retirement and Social Security Programs in order that said committee may enter upon its duties immediately upon adjournment of the Seventieth Session of the General Assembly. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 50, § 2: Feb. 5, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment and functioning of a sound and adequate system of joint interim committees of the General Assembly is essential to the operation of the legislative department of government, and that the immediate passage of this act is necessary to enable the Joint Interim Committee on Aging, and Legislative Affairs to commence to perform its duties immediately upon adjournment of the Regular Session of the Seventy-Second General Assembly. Therefore, an emergency is hereby declared to exist and this act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 97, § 2: Feb. 11, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the establishment and functioning of a sound and adequate system of joint interim committees of the General Assembly is essential to the operation of the legislative department of government, and that the immediate passage of this act is necessary to enable the Joint Interim Committee on Aging, and Legislative Affairs to commence to perform its duties immediately upon adjournment of the Regular Session of the Seventy-Second General Assembly. Therefore, an emergency is hereby declared to exist and this act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1979, No. 310, § 2: Mar. 6, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the rules of the respective houses have been amended to rename their Committee on Economic and Industrial Resources and Development as the Committee on Agriculture, Economic, and Industrial Resources and Development, and that in order that said committees may function as a Joint Interim Committee on Agriculture, Economic, and Industrial Resources and Development, as provided by law, the immediate passage of this act is necessary in order that said Committee may commence functioning immediately upon the adjournment of the 1979 Regular Session. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 709, § 3: Mar. 23, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present name of the Committee on Agriculture, Economic, and Industrial Resources and Development, is unnecessarily long and creates problems on making reference to the committee by name; that the name Agriculture and Economic Development is sufficiently descriptive of the subject matter jurisdiction of the committee; that this act is designed to change the name of the committee to the more appropriate name and should be

given effect immediately in order to enable the committee to commence functioning under the new name immediately upon adjournment of the 1983 Regular Session of the General Assembly. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 273, § 16: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1991, No. 969, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1991, No. 1240, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative ex-

penses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1995 (1st Ex. Sess.), No. 10, § 24: Oct. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to the operation of interim committees of the General Assembly unduly restricts the interim work of the General Assembly by authorizing committees to meet only as joint committees of the House of Representatives and the Senate; that in order to enable the Senate and House of Representatives to efficiently and effectively perform their interim duties, it is necessary that the interim committees of each house be authorized to meet either jointly or separately and that this act should be given effect immediately to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2009, No. 1242, § 6: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Department of Arkansas State Police has had ongoing financial difficulty for over twelve (12) years; that the State Police Retirement System has sustained investment losses of approximately one hundred million dollars (\$100,000,000) within the last two (2) years; that a larger investment pool is needed to help reduce risk and enhance returns; that the Arkansas Pub-

lic Employees' Retirement System has the size and expertise to effectively reduce the volatility of returns, enhance relative returns, and best protect the State Police Retirement System; and that this act is immediately necessary to protect the members and beneficiaries of the State Police Retirement System. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

10-3-201. Legislative findings.

(a) It is found and determined by the General Assembly that:

(1) There has been a phenomenal increase in the volume and complexity of matters affecting state and local government and affecting the citizens of the state, which must be considered and determined by the General Assembly at each session;

(2) The cost of state and local government has increased significantly in the past few years and the General Assembly has the primary responsibility for allocating state revenues to the various agencies, departments, and programs of state government as well as to the various political subdivisions and school districts within the state;

(3) It is not possible during the limited legislative sessions for the members of the General Assembly to make the detailed studies and investigations and to give the very important matters coming before it the necessary consideration and deliberation that is essential for it to make decisions in the best interests of this state and its citizens;

(4) The great increase in the number, complexity, and magnitude of federal programs and projects which must be administered primarily at the state and local level, together with the unprecedented growth and increase in state programs, projects, and services, and the necessary increases in revenues of the state which provide support for these programs, make it necessary that the General Assembly and the members thereof spend a great deal more time in becoming familiar with the various programs, projects, and services in order that they may properly represent their constituents in those matters when they come before the General Assembly; and

(5) In order for the members of the General Assembly to carry out their primary responsibility of making decisions in behalf of the citizens of this state regarding the many expensive but worthwhile programs, projects, and services, and regarding the allocation of revenues to finance the more essential programs, projects, and services and to wisely enact and revise both civil and criminal laws applicable in this state, it is necessary that a system of interim committees of the General Assembly be established whereby the individual members of the House

of Representatives and Senate will have an opportunity during the interim between sessions to study and analyze the many problems which will face them at the next session of the General Assembly in order that they will have a proper basis for casting their vote on those matters when the occasion arises.

(b) The General Assembly further finds that:

(1) It is essential to a proper and efficient legislative system that adequate professional and clerical assistance and facilities be provided the interim committees of the General Assembly during the interim between sessions in order to facilitate and coordinate the efforts of the various interim committees; and

(2) To accomplish this purpose, it is essential that the services and facilities available to the General Assembly be properly coordinated and organized in order to avoid duplication of effort and inefficiency in the legislative department.

History. Acts 1973, No. 90, § 1; A.S.A. 1947, § 4-1001n.

10-3-202. Purpose and intent.

It is the purpose and intent of §§ 10-3-201 — 10-3-208, 10-3-212 — 10-3-214, and 10-3-216 to provide for the necessary interim activities of the General Assembly in order that the members of the General Assembly may become better informed in matters coming before the General Assembly, to assure greater participation by all members of the General Assembly in the study of the many complex problems which face the General Assembly each session, and to provide the General Assembly with the essential staff and facilities to effectively carry out its responsibility as representatives of the citizens of this state.

History. Acts 1973, No. 90, § 1; A.S.A. 1947, § 4-1001n.

10-3-203. Interim committees established — Members — Jurisdiction.

There are established within the legislative department of government the following interim committees of the General Assembly as aids in the legislative process in this state:

(1) The Legislative Council, established pursuant to the provisions of § 10-3-301 et seq., shall consist of members of the General Assembly selected in the manner as is prescribed by law. The Legislative Council shall perform the functions and duties prescribed by law;

(2) The Legislative Joint Auditing Committee, established pursuant to § 10-3-401 et seq., shall consist of members of the General Assembly selected in the manner as is prescribed by law. The Legislative Joint Auditing Committee shall perform the functions and duties prescribed by law; and

(3)(A) The following ten (10) subject matter interim committees of the House of Representatives, each to consist of the members who compose the respective standing committees of the House having comparable subject matter jurisdiction, plus such other nonvoting members as may be selected pursuant to the Rules of the House of Representatives, who shall be entitled to per diem and mileage for attending meetings of the committees:

(i) House Committee on Education — matters pertaining to public kindergarten, elementary, secondary, and adult education, vocational education, vocational-technical schools, vocational rehabilitation, higher education, private educational institutions, similar legislation, and resolutions germane to the subject matter of the House Committee on Education;

(ii) House Committee on Judiciary — matters pertaining to state and local courts, court clerks and stenographers and other employees of the courts, civil and criminal procedures, probate matters, civil and criminal laws, similar matters, and resolutions germane to the subject matter of the House Committee on Judiciary;

(iii) House Committee on Public Health, Welfare, and Labor — matters pertaining to public health, mental health, mental retardation, public welfare, human relations and resources, environmental affairs, water and air pollution, labor and labor relations, similar legislation, and resolutions germane to the subject matter of the House Committee on Public Health, Welfare, and Labor;

(iv) House Committee on Public Transportation — matters pertaining to roads and highways, city streets, county roads, highway safety, airports and air transportation, common and contract carriers, mass transit, similar legislation, and resolutions germane to the subject matter of the House Committee on Public Transportation;

(v) House Committee on Revenue and Taxation — matters pertaining to the levy, increase, reduction, collection, enforcement and administration of taxes and other revenue-producing measures, and resolutions germane to the subject matter of the House Committee on Revenue and Taxation;

(vi) House Committee on Aging, Children and Youth, Legislative and Military Affairs — matters pertaining to the aged and problems of aging; children and youth, military, veterans, legislative affairs, memorials, other matters whenever the subject matter is not germane to the subject matter of any other standing committee, and resolutions germane to the subject matter of the House Committee on Aging, Children and Youth, Legislative and Military Affairs;

(vii) House Committee on Agriculture, Forestry, and Economic Development — matters pertaining to agriculture, livestock, forestry, industrial development, natural resources, oil and gas, publicity and parks, levee and drainage, rivers and harbors, similar legislation, and resolutions germane to the subject matter of the House Committee on Agriculture, Forestry, and Economic Development;

(viii) House Committee on City, County, and Local Affairs — matters pertaining to city and municipal affairs, county affairs, local

improvement districts, interlocal government cooperation, similar legislation, and resolutions germane to the subject matter of the House Committee on City, County, and Local Affairs;

(ix) House Committee on Insurance and Commerce — matters pertaining to banks and banking, savings and loan associations, stock, bonds, and other securities, securities dealers, insurance, public utilities, partnerships and corporations, home mortgage financing and housing, similar legislation, and resolutions germane to the subject matter of the House Committee on Insurance and Commerce; and

(x) House Committee on State Agencies and Governmental Affairs — matters pertaining to state government and state agencies, except where the subject matter relates more appropriately to another committee, proposed amendments to the Constitution of the State of Arkansas or the federal government, election laws and procedures, federal and interstate relations, similar legislation, and resolutions germane to the subject matter of the House Committee on State Agencies and Governmental Affairs.

(B) The following nine (9) subject matter interim committees of the Senate, each to consist of the members who compose the respective standing committees of the Senate having comparable subject matter jurisdiction, plus such other nonvoting members as may be selected pursuant to the Rules of the Senate, who shall be entitled to per diem and mileage for attending meetings of the committees:

(i) Senate Committee on Public Health, Welfare, and Labor — matters pertaining to public health, mental health, mental retardation, public welfare, human relations and resources, the aged and problems of the aging, environmental affairs, water and air pollution, labor and labor relations, and similar legislation;

(ii) Senate Committee on Revenue and Taxation — matters pertaining to the levy, increase, reduction, collection, enforcement and administration of taxes, and other revenue-producing measures;

(iii) Senate Committee on Education — matters pertaining to public kindergarten, elementary, secondary, and adult education, vocational education, vocational-technical schools, vocational rehabilitation, higher education, private educational institutions, and similar legislation;

(iv) Senate Committee on Judiciary — matters pertaining to state and local courts, court clerks and stenographers and other employees of the courts, civil and criminal procedures, probate matters, civil and criminal laws, and similar matters;

(v) Senate Committee on Agriculture, Forestry, and Economic Development — matters pertaining to agriculture, livestock, forestry, industrial development, natural resources, oil and gas, publicity and parks, levees and drainage, rivers and harbors, and similar legislation;

(vi) Senate Committee on Insurance and Commerce — matters pertaining to banks and banking, savings and loan associations,

stocks, bonds, and other securities, securities dealers, insurance, public utilities, partnerships and corporations, home mortgage financing and housing, and similar legislation;

(vii) Senate Committee on State Agencies and Governmental Affairs — matters pertaining to state government and state agencies, except where the subject matter relates more appropriately to another committee, proposed amendments to the Constitution of the State of Arkansas or the federal government, election laws and procedures, federal and interstate relations, and similar legislation. The committee shall also have the responsibility of monitoring and making recommendations for periodic updating, modernizing, and revising the code of ethics for public officials;

(viii) Senate Committee on City, County, and Local Affairs — matters pertaining to city and municipal affairs, county affairs, local improvement districts, interlocal governmental cooperation, and similar legislation; and

(ix) Senate Committee on Public Transportation, Technology, and Legislative Affairs — matters pertaining to roads, highway safety, airports and air transportation, common carriers, mass transits, and similar legislation, and matters pertaining to science, technology, bio-technology, and similar legislation, and other matters whenever the subject matter is not germane to the subject matter of any other Class “A” or Class “B” Committee. The Senate Committee on Public Transportation, Technology, and Legislative Affairs shall serve as the supervisory committee over the preparation of the journal and the engrossing and enrolling of bills. The Senate Committee on Public Transportation, Technology, and Legislative Affairs shall have no jurisdiction of matters affecting the interpretation of the Rules of the Senate, but such jurisdiction shall be exercised by the Senate Rules Committee.

(C) Members of the ten (10) interim House committees and the nine (9) interim Senate committees established in this subsection may also serve as members of the Legislative Council or of the Legislative Joint Auditing Committee.

(D) Any member of the House who sponsors a proposal or resolution providing for a study which is referred to one (1) of the ten (10) House interim committees and any member of the Senate who sponsors a proposal or resolution providing for a study which is referred to one (1) of the nine (9) Senate interim committees may serve as an ex officio member of that committee during the conduct of the study resulting from his or her proposal or resolution.

(E) The respective House and Senate committees may meet separately or the House and Senate committees of comparable subject matter jurisdiction may meet jointly.

History. Acts 1973, No. 90, § 2; 1979, No. 50, § 1; 1979, No. 97, § 1; 1979, No. 310, § 1; 1983, No. 709, § 1; A.S.A. 1947, § 4-1001; Acts 1989, No. 541, § 1; 1995, No. 1350, § 1; 1995 (1st Ex. Sess.), No. 10, §§ 1, 2; 2001, No. 960, § 1; 2007, No. 1581, § 1.

A.C.R.C. Notes. Acts 2011, No. 1059,

§ 3, provided: "INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2011, No. 1162, § 1, provided: "Interim study on cultural competence.

"The Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall:

"(1) Study the increasing diversity of our state;

"(2)(A) Identify best practice approaches to cultural competency training with a goal of preparing state employees to interact most effectively with people of different cultures and ethnicities.

"(B) For purposes of this act, cultural competency includes four (4) components as follows:

"(i) Awareness of one's own cultural worldview;

"(ii) Attitude towards cultural differences;

"(iii) Knowledge of different cultural practices and worldviews; and

"(iv) Cross-cultural skills.

"(C) The training program studied under this act shall ensure that participants have increased cultural awareness and competence in their respective service field, including without limitation:

"(i) Cross-cultural communication;

"(ii) Culturally and linguistically appropriate policy considerations;

"(iii) Culturally competent service delivery;

"(iv) Health disparities;

"(v) Equity factors in the health systems; and

"(vi) Culturally and linguistically competent care supported by policy, administration, and practice.

"(D) The training developed and recommended under this act shall be designed to be offered electronically and through continuing education and various distance-education models and media so as to maximize replication and minimize expense for state employees and state institutions; and

"(3) Make recommendations on ways to inform health care and public health professionals on the National Standards on Culturally and Linguistically Appropriate Services and encourage the use of those standards."

Acts 2011, No. 1162, § 2, provided: "The Senate Committee on Public Health, Welfare, and Labor and the House Committee on Public Health, Welfare, and Labor shall report their final findings under this act to the Governor, the Legislative Council, and the Arkansas Minority Health Commission on or before December 1, 2012."

Acts 2012, No. 217, § 3, provided: "INDEPENDENT MONITORING AND EVALUATION. The Arkansas Tobacco Settlement Commission shall file a quarterly progress report to the Public Health, Welfare and Labor Committees and shall hire an independent third party to perform monitoring and evaluation of program expenditures made from tobacco settlement funds. This independent third party shall have appropriate experience in health, preventive resources, health statistics and evaluation expertise. The third party retained to perform such services shall prepare a biennial report to be delivered to the General Assembly and the Governor by each August 1 preceding a regular session of the General Assembly. The report shall be accompanied by a recommendation from the Arkansas Tobacco Settlement Commission as to the continued funding for each program.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

Publisher's Notes. Acts 1995, No. 1350 became law without the Governor's signature.

Amendments. The 2007 amendment,

in (3), rewrote (A), added (B) and redesignated the remaining subdivisions accordingly, and substituted "nine (9) interim Senate" for "ten (10) interim Senate" in (C) and "nine (9) Senate" for "ten (10) Senate" in (D).

Cross References. Annual report re-

garding malpractice rates, § 23-61-114.

Joint Interim Committee on Public Retirement and Social Security Programs, § 10-3-703.

Powers and duties of the State Child Abuse and Neglect Prevention Board, § 9-30-105.

10-3-204. Interim committee chairs.

The chair and vice chair of each House of Representatives standing committee which composes a House interim committee shall serve as chair and vice chair of the House interim committee, and the chair and vice chair of each Senate standing committee which composes a Senate interim committee shall serve as chair and vice chair of the Senate interim committee. If the House and Senate interim committees of comparable subject matter jurisdiction elect to meet jointly, the chair of the House committee and the chair of the Senate committee may alternately serve as chair of the interim committee in such manner as they agree.

History. Acts 1973, No. 90, § 4; A.S.A. 1947, § 4-1003; Acts 1995 (1st Ex. Sess.), No. 10, § 3.

10-3-205. Staff — Assignment and duties.

(a) The Director of the Bureau of Legislative Research shall have the responsibility of employing the necessary professional and clerical personnel to staff the interim committees. He or she shall assign, after conferring with the chair of each of the committees, such staff to the committees as may be needed to carry out the functions and duties of the committee, within the limitations of the staff available.

(b) Staff personnel assigned to each committee shall assist the chair of the committee in preparing agendas, notices of meetings, undertaking research and writing research memoranda, taking and preparing minutes, reports, and recommendations of the committee and shall provide other assistance as may be necessary to assist the committee in carrying out its functions and duties.

(c) If any interim committee finds that the staff assigned to that committee is inadequate or that separate or additional staffing is necessary on a temporary or permanent basis in order to enable the committee to carry out its functions and duties, the chair of the committee may file a request for additional staff with the director, who shall present the request to the Legislative Council for its consideration, or the committee may request the House of Representatives or Senate to employ the separate or additional staff pursuant to the authority granted in Acts 1995, No. 1312, § 20.

History. Acts 1973, No. 90, § 5; A.S.A. 1947, § 4-1004; Acts 1995 (1st Ex. Sess.), No. 10, § 4.

Publisher's Notes. Acts 1995, No. 1312, § 20 is codified as a note under subchapter 3 of this chapter.

10-3-206. Meetings.

(a) Each of the subject matter interim committees may meet at the times and for such duration as it deems necessary to properly carry out its functions and duties. If any committee shall find it necessary for the committee to meet in excess of twelve (12) days per year, it shall report the necessity for any additional meeting to the Legislative Council. If funds are available to hold additional meetings, the Legislative Council shall so advise the requesting committee.

(b) The chair of each of the subject matter interim committees shall confer with the Director of the Bureau of Legislative Research in arranging meeting dates for the committees in order to avoid conflicting committee meetings and in order to assure maximum utilization of available staff and facilities for meetings of the committees.

History. Acts 1973, No. 90, § 7; A.S.A. 1947, § 4-1006; Acts 1995 (1st Ex. Sess.), No. 10, § 5.

10-3-207. Ad hoc subcommittees and citizen advisory panels.

The various subject matter interim committees may establish ad hoc subcommittees and citizen advisory panels consisting of state and local agency officials and employees and interested citizens, but state and local agency officials and employees and private citizens shall not be entitled to any per diem or mileage for attending meetings of an advisory panel.

History. Acts 1973, No. 90, § 10; A.S.A. 1947, § 4-1009.

10-3-208. Subpoenas.

Each committee of the Senate or of the House of Representatives or joint interim committee has the power and authority upon approval of a majority of the members of the committee to subpoena persons, documents, and records.

History. Acts 1973, No. 90, § 11; A.S.A. 1947, § 4-1010; Acts 2009, No. 1465, § 6. **Amendments.** The 2009 amendment rewrote the section.

10-3-209. Expenses of members.

(a) The Director of the Bureau of Legislative Research shall be the disbursing officer of the funds appropriated for paying per diem, expenses, and mileage to members of the General Assembly attending regular and special meetings and other committee-related activities of

the interim committees of the General Assembly as provided by law, unless specific provisions are made to the contrary.

(b) Payments for per diem and mileage for attendance by members of the Senate and House of Representatives at meetings of interim committees shall be upon written claims filed therefor.

History. Acts 1985, No. 273, § 8; A.S.A. 1947, § 4-1007.3; Acts 1995 (1st Ex. Sess.), No. 10, § 6.

Cross References. Additional compensation for committee chairs, § 10-2-215.

10-3-210. Attendance at regional or national conferences — Reimbursement of expenses.

(a) Members of the interim committees may be authorized to attend regional or national conferences of legislators or other public officials where attendance thereat will serve a beneficial legislative purpose. Members shall be entitled to receive reimbursement for reasonable and necessary expenses for travel, meals, lodging, and other authorized expenses incurred in connection therewith.

(b) Attendance at the meetings shall be authorized by vote of the committee or in accordance with uniform rules and procedures established by the committees with the approval of the Legislative Council.

History. Acts 1985, No. 273, § 8; A.S.A. 1947, § 4-1007.3; Acts 1995 (1st Ex. Sess.), No. 10, § 7.

10-3-211. Function during recess — Compensation.

If a regular session of the General Assembly is extended and the House of Representatives and the Senate recess for a period in excess of thirty (30) calendar days, the Legislative Council, the Legislative Joint Auditing Committee, and other interim committees of the General Assembly are authorized to meet and transact their normal business during the recess. They shall be entitled to per diem and mileage for attending meetings and attending to the official business of the committee to the same extent as during the interim between sessions of the General Assembly.

History. Acts 1973, No. 810, § 1; A.S.A. 1947, § 4-148.

10-3-212. Rules Committee of the Senate and Rules Committee of the House of Representatives — Meetings — Compensation.

(a) The Rules Committee of the Senate and the Rules Committee of the House of Representatives are authorized to meet jointly or separately at any time during the interim between legislative sessions as the Rules Committee of the Senate and the Rules Committee of the House of Representatives shall deem necessary or desirable to review

the Rules of the Senate, the Rules of the House of Representatives, and the Joint Rules of the House of Representatives and the Senate and to make recommendations for revisions in the rules or new rules as the Rules Committee of the Senate and the Rules Committee of the House of Representatives shall deem appropriate.

(b) The members of the Rules Committee of the Senate and the Rules Committee of the House of Representatives shall be entitled to receive per diem at the rate set for attendance at meetings of the subject matter interim committees of the House and Senate for attending subject matter or separate meetings of the Rules Committee of the Senate and the Rules Committee of the House of Representatives. Members shall also be entitled to mileage reimbursement as provided by law.

History. Acts 1973, No. 90, § 9; 1975, 1991, No. 969, § 5; 1991, No. 1240, § 5; No. 289, § 1; A.S.A. 1947, § 4-1008; Acts 1995 (1st Ex. Sess.), No. 10, § 8.

10-3-213. Requests for and receipt of information — Continuing studies — Agency assistance.

(a) Requests for information or study or legislation received from the Governor or from other state agencies or departments by the Legislative Council may be referred to the appropriate interim committee for its consideration.

(b) All state agencies shall furnish to the respective interim committees any information and assistance the committees may reasonably request.

(c) It shall be the responsibility of each of the interim committees to receive information and suggestions for new legislation or changes in existing legislation from the Governor, state agencies and departments, county and city officials, and from interested lay groups in the state within the subject areas of their respective committees.

(d) Each of the committees shall make continuing studies of the programs of state agencies, laws of the state, and the general operation of government within the subject matter jurisdiction of the committee and shall make any recommendations regarding them as it shall deem appropriate.

History. Acts 1973, No. 90, § 6; A.S.A. 1947, § 4-1005.

10-3-214. Committee studies — Duties of Legislative Council — Reports and findings.

(a) In addition to the functions and duties of the Legislative Council which are prescribed by law, it shall be the responsibility of the Legislative Council, in order to coordinate the efforts of the interim committees and to avoid duplication of effort by the committees, to review and screen all study resolutions referred by the General Assembly and all study proposals sponsored by members of the General Assembly during the interim and approved by the Legislative Council.

It shall either refer the study resolutions or study proposals to the appropriate interim committee for study or in unusual cases retain the study proposal or resolution and conduct the study. Nothing in §§ 10-3-201—10-3-208, 10-3-212—10-3-214, and 10-3-216, however, shall be construed to alter or diminish the exclusive interim and presession budget jurisdiction and authority of the Legislative Council as now prescribed by law.

(b) The respective interim committees may initiate and conduct studies by motion or resolution adopted by a majority of the membership of the committee, but when an interim committee initiates a study on its own motion, it shall advise the Legislative Council of the study to be made in order that the Legislative Council may suggest ways to eliminate duplication of effort among the interim committees.

(c) Each of the interim committees shall periodically report to the Legislative Council regarding studies referred to or undertaken by the committee and shall advise the Legislative Council of the status of each study pending before it.

(d) Each committee shall file a copy of its minutes, final reports, and recommendations on each study with the Legislative Council. Findings and recommendations of the interim committees shall be advisory only and shall not be binding on the standing committees of the Senate and House of Representatives during legislative sessions.

History. Acts 1973, No. 90, § 3; A.S.A. 1947, § 4-1002; Acts 1995 (1st Ex. Sess.), No. 10, § 9.

10-3-215. Study expenses.

(a)(1) Whenever an interim committee of the General Assembly deems it necessary or advisable in connection with any interim study activity authorized by law or undertaken by the committee to hire consultants, actuaries, or special technical or clerical employees, or other assistance in connection with any such study, a written request shall be filed with the Legislative Council. This request shall outline the nature or purposes of the study, the need or necessity of hiring such special consultants, actuaries, or technical or clerical employees, or other assistance, and the estimated amount required for the assistance.

(2) If the Legislative Council deems that uncommitted funds are available for that purpose and that the request for funds for hiring consultants, actuaries, or technical or clerical employees, or other assistance will serve a useful purpose and that the cost is justified, the Legislative Council, after seeking the advice of the interim committee which made the request, may proceed to employ such consultants, actuaries, or technical or clerical employees, or provide other assistance, and may make payment from the funds appropriated for interim committee study expenses.

(b) The Legislative Council may use the funds appropriated for interim committee study expenses in the same manner as other interim committees as set out in this section.

(c) It is the intent of the procedures set out in this section that the Legislative Council shall coordinate, control, and authorize expenditures for interim committee study expenses whenever the Legislative Council deems the expenditures to be in the interest of comprehensive studies or research projects authorized by law or by appropriate action taken by the respective interim committees.

History. Acts 1985, No. 273, § 11; A.S.A. 1947, § 4-1002n; Acts 1995 (1st Ex. Sess.), No. 10, § 10.

10-3-216. Duties of Legislative Joint Auditing Committee.

In addition to the functions and duties of the Legislative Joint Auditing Committee, the Legislative Joint Auditing Committee shall furnish such information and assistance to the various subject matter interim committees as may reasonably be requested by the committees. When the Legislative Joint Auditing Committee in the course of its audits or other activities discovers any improper action or inaction by any public agency or department or the employees of any public agency or department, it shall be the duty of the Legislative Joint Auditing Committee to report the findings to the appropriate interim committee for study and investigation.

History. Acts 1973, No. 90, § 13; A.S.A. 1947, § 4-1012.

10-3-217. Proposed bills — Filing — Action by committee.

(a) For the purpose of expediting the work of the interim committees of the General Assembly and to encourage each committee to develop bills for prompt introduction upon the convening of each session of the General Assembly, any member of the General Assembly may file drafts of proposed bills for consideration by the appropriate germane interim committee for study, review, modification, and action thereon by the committee. In addition, interim committees may cause drafts of bills to be prepared to carry out the findings and recommendations of the interim committees which result in recommendations for corrective or remedial legislation to be submitted to the next-following session of the General Assembly.

(b) Proposed bills may be filed with interim committees as follows:

(1) By a member of the General Assembly filed directly with the interim committee of which he or she is a member if the bill is germane to the committee;

(2) By a member of the General Assembly filed with the Legislative Council for referral to the appropriate interim committee of the General Assembly;

(3) By the Governor or a state agency filed with the appropriate germane interim committee or filed with the Legislative Council for referral to the germane interim committee for study and review.

(c) All bills presented by the Governor and state agencies for interim committee study shall be approved for study only upon a majority vote of the committee without that action's creating a presumption of favorable action by the committee on the bill, upon conclusion of its study.

(d) Bills filed directly with an interim committee shall be reviewed by the Legislative Council for the purpose of determining that the bill is germane to the committee, and may be re-referred to the germane interim committee if the Legislative Council determines that the bill is not germane to the committee with which filed.

(e) Upon conclusion of its study and hearings on a proposed bill, the committee shall take action as follows:

(1) Upon the favorable vote of a majority of the members of the committee or if the committee is meeting as a joint committee of the House of Representatives and the Senate, then upon the favorable vote of a majority of the Senate members of the committee and a majority of the House members of the committee, approve the bill, including any amendments that may be agreed to by the committee, for prefiling as a committee bill with the next-following regular session of the General Assembly;

(2) Reject the proposed bill as a committee bill; or

(3) Take no action thereon.

(f) Any bill approved by an interim committee, whether a committee of one (1) house or a joint meeting of committees of both houses, for introduction at the next regular session of the General Assembly shall be prefiled as a committee bill by either the House chair or the Senate chair of the committee in the manner provided for prefiling of bills preceding the convening of each regular session of the General Assembly. However, the prefiling of the bill in the House and the Senate by the chair or cochair of the interim committee as a committee bill shall be solely for the purpose of presenting the bill to the next regular session of the General Assembly for consideration in the manner provided in the rules of the respective houses. The bill shall be considered by each house and by the appropriate committee thereof in the same manner as other bills are considered by the General Assembly.

(g) In the event an interim committee rejects a bill or fails to take action thereon, any member of the General Assembly may introduce the bill at the next regular session of the General Assembly, and the bill shall be considered in the same manner as other bills introduced in the House or the Senate.

History. Acts 1983, No. 877, § 1; A.S.A. 1947, § 4-1018; Acts 1995 (1st Ex. Sess.), No. 10, § 11.

Cross References. Fiscal impact statements, § 10-2-114.

10-3-218. Budget hearings — Attendance by members of the General Assembly.

(a) During the presession budget hearings conducted by the Legislative Council and the Joint Budget Committee preceding each regular biennial session, the cochair of the Legislative Council shall cause copies of the budget hearing agendas to be furnished to each member of the General Assembly in order that all members of the Senate and House of Representatives will be advised of the times when such hearings are conducted and of the budget requests to be heard or considered each day of the hearings.

(b) All members of the Senate and House who will be serving in the upcoming regular biennial session of the General Assembly, including the newly elected members of the Senate and House, shall be entitled to attend any or all biennial presession budget hearings conducted by the Legislative Council and the Joint Budget Committee and shall be entitled to receive per diem and mileage for attending such meetings at the same rate as is provided for attendance at meetings of interim committees of the General Assembly.

History. Acts 1983, No. 877, § 2; A.S.A. 1947, § 4-1019; Acts 1991, No. 995, § 1; 1995 (1st Ex. Sess.), No. 10, § 12.

10-3-219. Purpose of §§ 10-3-217 and 10-3-218.

It is the intent of §§ 10-3-217 and 10-3-218 to supplement the existing laws of this state governing the powers, functions, and duties of the interim committees of the General Assembly. Nothing in those sections is intended to modify or repeal any of the existing laws governing the powers, functions, and duties of any of the interim committees of the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee, except to provide for separate interim committees of the House of Representatives and the Senate and to authorize comparable House and Senate committees to meet jointly during the interim if they choose to do so.

History. Acts 1983, No. 877, § 3; A.S.A. 1947, § 4-1020; Acts 1995 (1st Ex. Sess.), No. 10, § 13; 1997, No. 1354, § 13.

10-3-220. Monitoring of changes made in federal income tax laws and regulations — Reports of director.

(a) The Director of the Department of Finance and Administration shall monitor changes made in federal income tax laws and regulations for the purpose of determining how the changes may affect Arkansas income tax law and for the purpose of determining how the changes differ from provisions adopted for Arkansas income tax purposes.

(b) The director shall report his or her findings annually to the House Committee on Revenue and Taxation and the Senate Committee on

Revenue and Taxation and may make such other reports to the House Committee on Revenue and Taxation and the Senate Committee on Revenue and Taxation as he or she deems necessary.

History. Acts 1989, No. 738, § 1; 1995 (1st Ex. Sess.), No. 10, § 14.

SUBCHAPTER 3 — LEGISLATIVE COUNCIL

SECTION.

- 10-3-301. Creation — Members.
- 10-3-302. Officers — Quorum.
- 10-3-303. Bureau of Legislative Research.
- 10-3-304. Sessions — Studies — Cooperation of state agencies.
- 10-3-305. Hearings — Records — Rules.
- 10-3-306. Investigations — Witnesses — Recommendations.
- 10-3-307. Submission of itemized budgets to Legislative Council.
- 10-3-308. Presession budget briefings — Compensation.
- 10-3-309. Review of state agency rules, regulations, amendments, revisions, etc.
- 10-3-310. Compensation of executive secretary and employees — Cooperation with Council

SECTION.

- of State Governments — Reimbursement.
- 10-3-311. Gifts and donations.
- 10-3-312. Notification of lawsuits affecting state.
- 10-3-313. Meetings — Agenda — Procedures and practices.
- 10-3-314. Report on claim filed with Arkansas State Claims Commission.
- 10-3-315. Information and records.
- 10-3-316. Charitable, Penal and Correctional Institutions Subcommittee.
- 10-3-317. Disclosure of school district information and records — Access to electronic databases of the Department of Education.

A.C.R.C. Notes. Acts 1995, No. 1312, § 20, provided: “(a) There is hereby created a special House committee to be composed of nine House members, including the Speaker or his designate, four to be appointed by the Speaker (one selected from each caucus district) and four from the House Budget Committee, one from each caucus district, as appointed by the Chairman of the House Budget Committee. The Speaker shall appoint the Chairman of the committee. The committee may employ, using positions in Section 1, a Director of Constituency Services and four Legislative Analysts to staff an Office of House Constituency Services, to be under the direction of the House Performance Review Committee. The Bureau shall provide support staff for the Office. The committee may also employ, using positions in Section 1, ten Legislative Analysts and five secretaries for House committees and a Management Project Analyst for the purpose of coordinating the House Committee activities. If addi-

tional staff are required for the Office or the committees, the special committee may utilize positions in the contingency pool provided for in this act. For purposes of this act, the staff of the House committees and the staff of the House Constituency Services Office shall be Bureau employees.

“(b) The Senate Efficiency Committee may employ, using positions in Section 1, a Director of Constituency Services and two Legislative Analysts to staff an Office of Senate Constituency Services. The Bureau shall provide support staff for the Office. The committee may also employ, using positions in Section 1, five Legislative Analysts and five secretaries for Senate committees. If additional staff are required for the Office or the committees, the Senate Efficiency Committee may utilize positions in the contingency pool provided for in this act. For purposes of this act, the staff of the Senate committees and the staff of the Senate Constituency Services Office shall be Bureau employees.”

Acts 1995, No. 1312, § 21, provided: "In the event that an elected Constitutional Officer relocates his/her office and related staff from the State Capitol Building, and does not have authorized in his/her authorized biennial appropriation act an amount sufficient to expend for rent, then the Bureau of Legislative Research of the Arkansas Legislative Council may expend from appropriations authorized for the Bureau of Legislative Research of the Arkansas Legislative Council such additional funds as required to assist such elected Constitutional Officer for such additional rent. The Secretary of State and the Joint Interim Committee on Legislative Facilities shall jointly decide who shall occupy the vacated areas."

Acts 1995 (1st Ex. Sess.), No. 10, § 15, provided: "As soon as possible after the effective date of this act and from time to time thereafter, the chairman and vice chairman of the Legislative Council, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, meeting jointly with the chairman of the Joint Budget Committee shall determine the distribution of funds appropriated for ad interim committees' per diem, mileage, and out-of-state travel to the separate House and Senate committees herein for the remainder of this biennial period. In the event that one person occupies two or more of the above named positions, they shall appoint a member of their house to serve as their representative in one of the positions."

Acts 1995 (1st Ex. Sess.), No. 10, § 16, provided: "Nothing in this act shall affect any statutorily created subcommittee of a joint interim committee."

Cross References. Institute of Legislative Procedure, § 10-2-123.

Preambles. Acts 1949, No. 264 contained a preamble which read: "Whereas, it is practically impossible for the General Assembly, during its sixty days session every two years, to make and keep adequate check upon and to secure sufficient, accurate and detailed information upon the operations of the state government, and all of its departments, institutions, boards, commissions and affairs to enable its members to be properly informed as to the operations thereof, the adequacy or inadequacy of appropriations made and the manner of their expenditures and the basis and necessity of ap-

propriation requests thereafter to be presented to the General Assembly, and

"Whereas, proper investigation and audit of the affairs and operations of the state government, its departments, institutions, boards and commissions by an agency of the General Assembly is necessary in the interest of intelligent and informed action by the members of the General Assembly in future legislation and for the best interest of the people of this state...."

Effective Dates. Acts 1949, No. 264, § 13: approved Mar. 9, 1949. Emergency clause provided: "Since it is apparent that a Joint Legislative Committee is needed, and since it is believed that a greater contribution to the efficient administration of state affairs can be accomplished by a Legislative Committee composed exclusively of members of the General Assembly, and since there are many matters which should be considered by the Joint Legislative Committee immediately upon adjournment of this General Assembly; now, therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after its passage."

Acts 1951, No. 230, § 4: approved Mar. 1, 1951. Emergency clause provided: "Since it is apparent that changes in the law creating the Joint Legislative Committee are needed, and since it is believed that a greater contribution to the efficient administration of state affairs can be accomplished by a Legislative Committee composed exclusively of members of the General Assembly, and the provision for alternates to serve in the place of members who are not reelected to the General Assembly, and since there are many matters which should be considered by the Joint Legislative Committee immediately upon adjournment of this General Assembly; Now, therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after its passage."

Acts 1955, No. 247, § 4: Mar. 15, 1955. Emergency clause provided: "Since it is apparent that changes in the law creating the Joint Legislative Committee are needed, and since it is believed that a

greater contribution to the efficient administration of state affairs can be accomplished by a Legislative Committee composed exclusively of members of the General Assembly, and provision is needed for alternates to serve in the place of members who are not reelected to the General Assembly, and since there are many matters which should be considered by the Joint Legislative Committee immediately upon the adjournment of this General Assembly; now, therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after its passage and approval."

Acts 1959, No. 303, § 2: Mar. 26, 1959. Emergency clause provided: "Since it is apparent that changes in the law creating the Joint Legislative Committee are needed, and since it is believed that a greater contribution to the efficient administration of state affairs can be accomplished by a reorganized Legislative Committee, and provision is needed for alternates to serve in the place of members who are not reelected to the General Assembly, and since there are many matters which should be considered by the Joint Legislative Committee immediately upon the adjournment of this General Assembly; now, therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in full force from and after its passage and approval."

Acts 1961 (1st Ex. Sess.), No. 41, § 2: Sept. 8, 1961. Emergency clause provided: "It is hereby found and declared by the General Assembly that the Arkansas Legislative Council conducts numerous studies of governmental problems, that said studies play a vital role in the improvement of government in this state, and that gifts, grants, contributions and donations as authorized in this act will provide much needed additional funds for carrying out such vital studies. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from and after the date of its passage and approval."

Acts 1963, No. 253, § 4: Mar. 18, 1963. Emergency clause provided: "It is hereby found and determined by the General As-

sembly that the Legislative Committee created by Act 264 of 1949, and which is designated as the Legislative Council, has many matters of pressing importance to be considered, that said committee will be appointed during the Regular Session of the General Assembly and will meet upon adjournment of the General Assembly and that establishment of an adequate and proper per diem as an expense allowance for attending meetings of said committee is necessary for the proper discharge of the duties of said committee. Now, therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 411, § 3: Mar. 20, 1965. Emergency clause provided: "It is hereby found and determined by the General Assembly that a majority of the members of the Legislative Council are selected by caucus of the members of the House of Representatives from each of the six congressional districts as established by Act 297 of 1951; that such manner of selection was designed to assure that the membership of the Legislative Council would be composed of a broad cross-section of the members of the House of Representatives from the various areas of the state and would represent the views of the members of the House of Representatives from the various sections of the state; that there is some uncertainty in the present law regarding whether or not the two members of each district selected by caucus must be from different counties of the district, and that this act will clarify the law in this respect; that the members of the Legislative Council will be selected sometime prior to the adjournment of the Sixty-Fifth General Assembly and that it is desirable that this act become effective immediately in order to clarify this situation prior to the selection of such members. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1965, No. 500, § 5: Mar. 20, 1965. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Bureau of Legislative

Research of the Legislative Council performs many services vital to the legislative process of this state and that the immediate passage of this act is necessary to clarify the duties of said bureau with respect to the Legislative Council and to the members of the General Assembly, and it is further necessary that this act be immediately passed in order to clarify the duties of the Legislative Council with respect to studies to be undertaken at the direction of the General Assembly in order that such studies might be undertaken immediately upon adjournment of the General Assembly, to enable the compilation of adequate information and to hold hearings in connection therewith in order to conclude said studies for use by the next session of the General Assembly or by any special session of the General Assembly that may be called in the near future. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 86, § 3: became law without Governor's signature, Feb. 13, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the membership of the Legislative Council is not large enough to permit an equitable distribution of its members among the various sections of the state, and that an equitable distribution of the members thereof is necessary in order that the various sections of the state and the various interests in each section can be properly represented, and that this act will correct this situation. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1967, No. 107, § 3: Feb. 20, 1967. Emergency clause provided: "It is hereby found and determined that under the laws of this state the members of the House and Senate from each of the six congressional districts established by Act 297 of 1951 are to caucus for the selection of members and alternate members of the Legislative Council and the Legislative Joint Auditing Committee; that the reapportionment of the seats of the House and

Senate has resulted in a number of members of the House and Senate being elected from Representative or Senatorial districts that comprise counties in more than one congressional district; and, that immediate clarification of the method to be followed in the conduct of the respective caucuses for the selection of such members and alternates is essential in order that each of these two important joint ad interim committees of the General Assembly may be properly selected during the current Regular Session of the General Assembly as required by law. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1971, No. 292, § 4: Mar. 15, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that the functions and duties of the Legislative Council in conducting interim research studies for the benefit of the Sixty-Ninth General Assembly, and in reviewing the budgetary needs of the various agencies of government in order to prepare recommendations to the Sixty-Ninth General Assembly with respect to the budget for each of the respective state agencies, indicates a need for the designation of two members of the General Assembly, one from the House of Representatives and one from the Senate, to serve on the Legislative Council as spokesmen for the Governor and in order to report to the Governor, and to convey to the Council the recommendations of the Governor on matters being studied by the Legislative Council, and that the immediate passage of this act is necessary in order to expedite the selection of members of the Legislative Council, as required by law, prior to the adjournment of the Sixty-Eighth General Assembly. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 929, § 3: Apr. 8, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the Arkansas Legislative Council and the Arkansas Joint Auditing Committee have many matters

of pressing importance to be considered, that said committees will be selected during the Regular Session of the General Assembly and will meet upon adjournment of the General Assembly and that establishment of an adequate and proper per diem, expense allowance and mileage reimbursement for attending meetings of such committees is necessary for the proper discharge of the duties of said committees. Now, therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 84, § 4: Feb. 25, 1987. Emergency clause provided: "It is hereby found and determined that the House of Representatives and Senate select their members to the Legislative Council and Legislative Joint Auditing Committee from the old six congressional districts; that the selection from the present four congressional districts would be more equitable; that the selection is to be made prior to adjournment of this legislative session; and therefore, this act must go into effect as soon as possible to grant the House and Senate the authority to change the method of selection of its members to the Legislative Council and the Joint Auditing Committee. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 832, § 7: Mar. 27, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present composition of the Joint Budget Committee is in immediate need of change; this act so provides; and that this act shall go into effect immediately in order to change the membership of the Joint Budget Committee prior to the adjournment of this regular session. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1055, § 24: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly, that the Consti-

tution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1991 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 542, § 7: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act affects the method of selection of members of the House of Representatives to the Legislative Council, Legislative Joint Auditing Committee and the Joint Budget Committee; and that this act is immediately necessary to provide for the proper selection of such members during the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 607, § 36: approved Mar. 13, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 993, § 18: Apr. 6, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that payees listed in this Act may be entitled to the sums appropriated and transferred to herein,

and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1312, § 36: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, Sections 9 as added by House Amendment 1, 12 as added by House Amendment 4, and 15 through 19 as added by House Amendment 10 shall be in full force and effect from and after the date of passage and approval and the remainder of the act shall be in full force and effect from and after July 1, 1995."

Acts 1995 (1st Ex. Sess.), No. 10, § 24: Oct. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to the operation of interim committees of the General Assembly unduly restricts the interim work of the General Assembly by authorizing committees to meet only as joint committees of the House of Representatives and the Senate; that in order to enable the Senate and House of Representatives to efficiently and effectively perform their interim duties, it is necessary that the interim committees of each house be authorized to meet either jointly or separately and that this act should be given effect immediately to accomplish this purpose. Therefore, an emergency is hereby declared to

exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995 (1st Ex. Sess.), No. 16, § 29: became law without Governor's signature. Noted Oct. 19, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly meeting in First Extraordinary Session, that payees listed in this Act may be entitled to the sums appropriated and transferred herein, and that they have been deprived of the use of these funds for a long period of time, and that further delay in paying these just debts of the State would do harm to the reputation of the State of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1285, § 32: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety Section 10 of this act shall be in full force and effect from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Section 10 shall become effective on the expiration of the period of time during which the governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 10 shall become effective on the date the last house overrides the veto. The remaining sections of this act shall become effective from and after July 1, 1997."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is

found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 466, § 9: Feb. 28, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the Legislative Joint Auditing Committee should now have co-chairpersons and co-vice chairpersons instead of a chairperson and vice-chairperson; that this act so provides; that these officers will be selected by the Legislative Joint Auditing Committee as soon as it organizes after the adjournment of this regular session; and that unless this act goes into effect immediately, the Committee will not be able to select its co-chairpersons until perhaps months after its initial meeting. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2100, § 22: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in

this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

Acts 2006 (1st Ex. Sess.), No. 38, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current Arkansas law does not provide sufficient information on the cost of administrative rules promulgated by the State Board of Education and the State Board of Workforce Education and Career Opportunities; and that this bill will provide critical information on the cost of administrative rules to public school districts and will minimize the possibility of the placement of unfunded mandates upon public school districts. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 273 § 2: Mar. 15, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Legislative Council conducts continuing review of administrative rules during the interim to allow the General Assembly to take remedial steps to correct abuses of rulemaking authority or clarify legislative intent at legislative sessions; that this review ceases during a regular, fiscal, or extraordinary session of the General Assembly,

creating a gap in this vital legislative function; and that legislative review of administrative rules should be possible during a regular, fiscal, or extraordinary session to allow the General Assembly to maintain awareness of agency actions and be prepared to correct abuses of rulemaking authority or clarify legislative intent when the General Assembly is in session. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Ark. L. Rev. Powers, Separation of Powers: The Unconstitutionality of the

Arkansas Legislative Council, 36 Ark. L. Rev. 124.

10-3-301. Creation — Members.

(a) An ad interim committee of the General Assembly is hereby established as the "Legislative Council" to consist of the following:

(1) The Senate shall select sixteen (16) members in accordance with procedures prescribed by the Rules of the Senate;

(2) The House of Representatives shall select twenty (20) members in accordance with the procedure prescribed by the Rules of the House of Representatives;

(3)(A) The President Pro Tempore of the Senate, the President Pro Tempore Designate, the immediate past President Pro Tempore of the Senate, the Speaker Designate of the House of Representatives, the Speaker of the House of Representatives, the immediate past Speaker of the House of Representatives, the immediate past co-chairs of the Legislative Council, the immediate past chair or co-chairs of the Legislative Joint Auditing Committee, and the chair and vice chair or co-chairs and co-vice chairs of the Legislative Joint Auditing Committee shall be ex officio members of the Legislative Council and shall enjoy the same rights and privileges as other Legislative Council members.

(B)(i) If the immediate past Speaker of the House of Representatives is not a member of the House, the current Speaker of the House of Representatives may appoint a member of the House to serve in

the stead of the immediate past Speaker of the House of Representatives.

(ii) If the immediate past President Pro Tempore of the Senate is not a member of the Senate, the current President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past President Pro Tempore of the Senate.

(iii) If the immediate past House Cochair of the Legislative Council is not a member of the House, the Speaker of the House of Representatives may appoint a member of the House to serve in the stead of the immediate past House cochair.

(iv) If the immediate past Senate Cochair of the Legislative Council is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(v) If the immediate past House Cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House of Representatives may appoint a member of the House to serve in the stead of the immediate past House cochair.

(vi) If the immediate past Senate Cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(vii) If the House Cochair of the Legislative Joint Auditing Committee has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Joint Auditing Committee elect a cochair of the Legislative Joint Auditing Committee.

(viii) If the House Co-vice Chair of the Legislative Joint Auditing Committee has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Joint Auditing Committee elect a co-vice chair of the Legislative Joint Auditing Committee;

(4)(A) The majority party leader and minority party leader of the House or their designees, and the majority party leader and the minority party leader in the Senate or their designees shall be members of the Legislative Council and shall enjoy the same rights and privileges as other Legislative Council members.

(B)(i) If the majority party leader or the minority party leader in the House elects to designate a person to serve, that designation shall be subject to confirmation by the Speaker of the House of Representatives.

(ii) If the majority party leader or the minority party leader in the Senate elects to designate a person to serve, that designation shall be subject to confirmation by the President Pro Tempore of the Senate; and

(5) The majority party whip and minority party whip in the Senate or their designees and the majority party whip and the minority party whip in the House or their designees shall be members of the Legisla-

tive Council and shall enjoy the same rights and privileges as other Legislative Council members.

(b)(1) In order that there may be no vacancies on the Legislative Council at any time, at the time the members are selected to the Legislative Council by the Senate and by the House, there shall also be selected, in the same manner, one (1) first alternate member and one (1) second alternate member for each regular member.

(2)(A) First alternate members shall also be nonvoting members of the Legislative Council and shall be entitled to per diem and mileage for attending all meetings of the Legislative Council.

(B) First alternate members of the Legislative Council shall have a vote in matters before the Legislative Council if the regular member which the first alternate represents is not in attendance.

(C) First alternate members attending as nonvoting members of the Legislative Council shall receive per diem and mileage to be paid in the same manner and from the same source as regular members of the Legislative Council.

(3) Second alternate members of the Legislative Council shall have a vote in matters before the Legislative Council if the regular member and the first alternate member which the second alternate represents are not in attendance.

(c) In the event of a tie vote in the congressional caucus to elect members and alternates, the member or alternate shall be elected by the entire membership of the House or Senate, as the case may be.

(d)(1) Following the selection by caucus of the regular and alternate Senate members of the Legislative Council from the respective congressional districts, the President Pro Tempore of the Senate shall appoint from the membership of the Senate his or her first and second alternate members.

(2) The designation of first and second alternate members by the President Pro Tempore of the Senate shall be made prior to adjournment of each regular session of the General Assembly.

(3)(A) The selection and designation of first and second alternate members from the membership of the House shall be in accordance with the procedure prescribed by the Rules of the House of Representatives.

(B) Notwithstanding any provision of this section to the contrary, after January 1, 1999, the selection and designation of first and second alternate members from the membership of the Senate shall be in accordance with the procedure prescribed by the Rules of the Senate.

(4) The names of the persons shall be entered upon the journal of the respective houses.

(e)(1) Notwithstanding any provision of this section to the contrary, tenure of membership and the means of filling vacant positions for Senate Legislative Council members shall be as prescribed by the Rules of the Senate.

(2) Tenure of membership and means of filling vacant positions for House Legislative Council members shall be as prescribed by the Rules of the House of Representatives.

(f)(1) The cochairs of the Joint Budget Committee shall be ex officio voting members of the Legislative Council.

(2) The House Chair of the Joint Budget Committee may designate the House Vice Chair of the Joint Budget Committee and other House chairs of Joint Budget Committee subcommittees as ex officio nonvoting members of the Legislative Council, thereby authorizing their attendance at meetings of the Legislative Council and its subcommittees.

(g) The House chairs and vice chairs of the Review/PEER Subcommittee of the Joint Budget Committee, the Personnel Subcommittee of the Joint Budget Committee, and the Claims Subcommittee of the Joint Budget Committee shall serve on the corresponding subcommittees of the Legislative Council as ex officio nonvoting members.

(h)(1) With the consent of both the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Legislative Council may meet during a session of the General Assembly to transact business concerning the personnel and operations of the Bureau of Legislative Research.

(2) This subsection does not limit the authority of the Legislative Council to meet during a recess as authorized by § 10-3-211 or § 10-2-223.

History. Acts 1949, No. 264, § 1; 1951, No. 230, § 1; 1955, No. 247, § 1; 1959, No. 303, § 1; 1965, No. 411, § 1; 1967, No. 86, § 1; 1967, No. 107, § 1; 1971, No. 292, § 1; A.S.A. 1947, §§ 4-617, 4-617.1, 4-617.3; Acts 1987, No. 84, § 1; 1991, No. 832, § 2; 1993, No. 542, § 1; 1995, No. 608, § 1; 1995, No. 1149, § 1; 1995, No. 1312, §§ 16-18; 1995, No. 1350, § 2; 1995 (1st Ex. Sess.), No. 10, § 17; 1997, No. 1285, § 17; 1997, No. 1354, §§ 1, 3, 4, 46; 2001, No. 148, § 1; 2001, No. 288, § 1; 2001, No. 466, § 8; 2003, No. 1091, §§ 1, 3[5]; 2005, No. 2100, § 15; 2007, No. 319, § 1; 2007, No. 321, § 1.

A.C.R.C. Notes. As originally amended by Acts 2001, No. 148, subdivision (e)(1) provided: "Notwithstanding any provision of this section to the contrary, after January 1, 1999, tenure of membership and the means of filling vacant positions for Senate Legislative Council Members shall be

as prescribed by Senate Rules."

Acts 2003, No. 1091, Section 5 was mislabeled as Section 3.

Acts 2003, No. 1792, provided in subdivision (b)(2)(G): "Conduct a cost study on or before August 31, 2004, to be submitted to the Arkansas Legislative Council for the purpose of determining whether legislation should be proposed to adjust the commercial mobile radio service emergency service charges to reflect the actual and reasonable costs to be appropriately incurred by public safety answering points and commercial mobile radio service providers for compliance with applicable requirements of the Federal Communications Commission docket # 94-102."

Amendments. The 2007 amendment by No. 319 added (h).

The 2007 amendment by 321 added (a)(3)(B)(vii) and (viii).

10-3-302. Officers — Quorum.

(a)(1)(A) The House of Representatives members of the Legislative Council shall select one (1) of their number as Legislative Council

cochair and one (1) of their number as Legislative Council co-vice chair.

(B) The Senate members of the Legislative Council shall select one (1) of their number as Legislative Council cochair and one (1) of their number as Legislative Council co-vice chair.

(2)(A) The House cochair shall appoint all House Legislative Council members to Legislative Council subcommittees and the Senate cochair shall appoint all Senate Legislative Council members of Legislative Council subcommittees.

(B) The House cochair shall appoint a House Legislative Council member as cochair of each Legislative Council subcommittee and the Senate cochair shall appoint a Senate Legislative Council member as cochair of each Legislative Council subcommittee.

(C) The Senate cochair and the House cochair shall alternate in presiding at meetings of the Legislative Council unless the two (2) chairs shall agree otherwise.

(3) Any other officers shall be elected as the Legislative Council may deem necessary.

(4) The Legislative Council shall select an executive secretary who shall serve as secretary to the Legislative Council at all of its meetings, but without a vote.

(b)(1) Upon the request of any three (3) members of the Legislative Council, a separate vote of House members and Senate members shall be taken on any issue or matter brought before the Legislative Council and approval of each house shall be required for the action.

(2) The adoption or amendment of the rules of the Legislative Council shall require approval by a separate vote of Senate Legislative Council members and House Legislative Council members.

History. Acts 1949, No. 264, § 2; A.S.A. 1947, § 4-618; Acts 1997, No. 1354, § 47.

10-3-303. Bureau of Legislative Research.

(a) There is established under the direction and control of the Legislative Council a Bureau of Legislative Research which shall consist of a director to be selected by the Legislative Council and other assistants as may be provided by legislative appropriation.

(b) The Director of the Bureau of Legislative Research shall be the Executive Secretary to the Legislative Council and shall attend all of its meetings and keep official records of all Legislative Council proceedings.

(c) It shall be the duty of the bureau acting under the direction of the director to:

(1) Make studies and investigations, upon direction of the Legislative Council, and secure factual information, prepare reports, and draft legislation as may be required by the Legislative Council or any of its subcommittees;

(2) Assist all members of the General Assembly upon request while the General Assembly is in regular session, fiscal session, or special session in drafting bills and resolutions, and making studies, preparing factual information, and by performing other services for members of the General Assembly as may be reasonably requested and which are in aid of the performance of the legislative duties of the members of the General Assembly;

(3) Assist all members of the General Assembly when the General Assembly is not in session in connection with any reasonable request in preparing proposed bills or resolutions for introduction in the General Assembly when in session by compiling factual information, making studies, providing legal assistance, and performing other duties which assist members of the General Assembly in performing their official legislative duties;

(4)(A) Maintain a limited legislative reference library service for legislative matters, utilizing print material, digital media, and information available through the Internet. The bureau shall collect and make available in the most suitable form information relative to governmental subjects that will aid the General Assembly and bureau to perform their duties.

(B) The bureau shall cooperate with comparable legislative agencies in other states concerning the availability and exchange of publications in order that the General Assembly might be fully advised of current developments in the legislatures of the various states.

(C) The bureau shall maintain files or digital copies of bills introduced at the various legislative sessions that may or may not have been enacted by the General Assembly;

(5) Prepare research reports and provide other staff services to the Legislative Council or its subcommittees with respect to studies undertaken by the Legislative Council at the direction of the General Assembly, or either house thereof, or upon request of any member of the General Assembly;

(6) Assist the Legislative Council in its study of the budgetary and fiscal needs of the various state agencies and cooperate with the Department of Finance and Administration and other agencies of this state upon direction of the Legislative Council in the preparation of a budget manual reflecting the Legislative Council's budgetary recommendations to each session of the General Assembly;

(7) Cooperate with comparable legislative service agencies in other states by exchanging information of legislative interest and participate in conferences or workshops on a regional or national basis organized for the purpose of exchanging information or discussing means and methods of improving services to legislatures and legislators in connection with the performance of their official duties; and

(8) Perform any other duties and assignments as may be directed by the Legislative Council or by the General Assembly.

(d) The agenda of each session of the Legislative Council shall be prepared by the director under the direction of the cochairs of the

Legislative Council, and the agenda shall consist of any proposals as may be submitted by the members of the General Assembly, the Governor of the State of Arkansas, and such other matters as may be suggested by matters of public interest.

(e) The bureau is a service agency within the legislative department of government and all members of the General Assembly shall have access thereto. The bureau shall be operated for the benefit of and the assistance to every member of the General Assembly to the end that legislative matters may be coordinated and the General Assembly assisted in its deliberations. The director and all employees of the bureau are declared to be employees of the General Assembly and shall be responsible to the General Assembly.

(f)(1) There is established the Executive Subcommittee of the Legislative Council to be composed of the following members:

(A) The House and Senate cochair of the Legislative Council;

(B) The House and Senate co-vice chairs of the Legislative Council;

(C) The President Pro Tempore of the Senate or one (1) senator selected by the President Pro Tempore of the Senate;

(D) The Speaker of the House of Representatives or one (1) representative selected by the Speaker of the House of Representatives;

(E) The immediate past Senate Cochair of the Legislative Council or one (1) member designate appointed by the Senate Cochair of the Legislative Council; and

(F) The immediate past House Cochair of the Legislative Council or one (1) member designate appointed by the House Cochair of the Legislative Council.

(g)(1) The Executive Subcommittee of the Legislative Council may require the director to report and regularly seek the review and advice of the Executive Subcommittee of the Legislative Council prior to:

(A) Taking actions regarding establishing new, repealing, or changing personnel policies pertaining to employees of the bureau;

(B)(i) Taking actions concerning the hiring or termination of staff, staff promotions, and proposed salary changes.

(ii) Nothing in this section shall be construed to create an employment contract, any salary obligation, other obligation, or change in employment status of staff of the bureau from an at-will employment relationship; or

(C) Establishing new, repealing, or changing any other policies or procedures of the bureau relating to the delivery of services and other matters pertaining to the operation of the bureau, including the biennial budget request of the bureau.

(2) The Executive Subcommittee of the Legislative Council may meet and transact business both during a session of the General Assembly and during the interim between sessions of the General Assembly. If during a legislative session the Executive Subcommittee of the Legislative Council takes action that requires approval by the Legislative Council, the approval may be granted either by the Legislative Council, if authorized to meet, or by the Joint Budget Committee.

History. Acts 1949, No. 264, §§ 5, 10; 1965, No. 500, § 1; A.S.A. 1947, §§ 4-621, 4-626; Acts 2005, No. 2100, § 18; 2007, No. 18, § 1; 2007, No. 319, § 2; 2007, No. 665, § 1; 2009, No. 962, § 16.

Amendments. The 2007 amendment by No. 18 substituted “under the direction of the cochairs of the Legislative Council” for “who shall be assisted by the Dean of the School of Law of the University of Arkansas at Fayetteville” in (d).

The 2007 amendment by No. 319, in (g), added (2), substituted “The Executive

Subcommittee may require the Director of the Bureau of Legislative Research to report” for “The Director of the Bureau of Legislative Research shall report to” in present (1), and made related and stylistic changes.

The 2007 amendment by No. 665 rewrote (c)(4).

The 2009 amendment inserted “session, fiscal session” following “regular” in (c)(2).

10-3-304. Sessions — Studies — Cooperation of state agencies.

(a)(1) The Legislative Council shall convene at any time during the interim between regular sessions, fiscal sessions, or special sessions of the General Assembly and shall remain in session for such time as it considers necessary for the consideration of all matters relating to state government, not however, for more than a total of ninety (90) days which need not be continuous.

(2) The Legislative Council shall convene and hold its sessions at the State Capitol at the seat of government or at other places as the Legislative Council may determine, and ample notice of all sessions shall be given by the Executive Secretary to the Legislative Council in advance of the sessions.

(b) The Legislative Council shall undertake such studies or investigations as may be directed by the General Assembly or either house of the General Assembly. In addition, any member of the General Assembly shall be privileged when the General Assembly is not in session to submit resolutions or study proposals to the Legislative Council for its consideration, study, and recommendations.

(c) The Legislative Council shall report any findings and recommendations to each regular session, fiscal session, or special session of the General Assembly for the repeal or amendment of existing laws or for the enactment of new laws with respect to the operation of the state government or with respect to any matter that is a subject for legislative consideration.

(d) All departments and agencies of the state government are directed to cooperate with the Legislative Council and with the Bureau of Legislative Research in providing assistance, information, or data when requested so that the General Assembly might be fully advised of all matters with respect to the operation of the various state agencies, departments, and institutions.

History. Acts 1949, No. 264, § 6; 1965, No. 500, § 2; A.S.A. 1947, § 4-622; Acts 2009, No. 962, § 17.

Amendments. The 2009 amendment added the subdivision designations in (a); inserted “sessions, fiscal sessions” follow-

ing “regular” in (a)(1); deleted “thereof” preceding “shall be given” in (a)(2); substituted “of the General Assembly” for “thereof” in the first sentence of (b); and inserted “session, fiscal session” following “regular” in (c).

10-3-305. Hearings — Records — Rules.

(a) Hearings before the Legislative Council shall be public, and all sessions of the Legislative Council shall be open to the public, except in those instances in which the Legislative Council feels that it is necessary to go into executive session.

(b) All records, reports, and other matters before the committee or in the office of the Director of the Bureau of Legislative Research shall at all times during business hours be open to reasonable public inspection, except as to those matters which the Legislative Council has determined should be privileged.

(c) Any member of the General Assembly or other person can be heard by the Legislative Council for the purpose of discussing any proposed legislation or any other matter of public interest.

(d) The Rules of the House of Representatives and the Rules of the Senate shall govern the proceedings of the Legislative Council, but if the rules are conflicting or inadequate, the Legislative Council shall adopt its own rules.

History. Acts 1949, No. 264, § 9; A.S.A. 1947, § 4-625.

RESEARCH REFERENCES

Ark. L. Rev. Watkins, Access to Public Records under the Arkansas Freedom of Information Act, 37 Ark. L. Rev. 741.	Watkins , Open Meetings under the Arkansas Freedom of Information Act, 38 Ark. L. Rev. 268.
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10-3-306. Investigations — Witnesses — Recommendations.

(a) The Legislative Council shall have authority to conduct investigations pertaining to the operation of any state agency, institution, department, or office.

(b) After its organization, the Legislative Council shall proceed to investigate all state departments, agencies, institutions, and all other activities supported either in whole or in part by state funds.

(c) In connection with any investigation, it shall have the right and power to subpoena witnesses and to issue subpoena duces tecum. The cochairs of the Legislative Council are authorized to administer oaths.

(d) The Legislative Council shall make proper recommendations to each General Assembly as to the appropriations required by all agencies, institutions, and departments for their efficient and economical operation.

History. Acts 1949, No. 264, §§ 3, 4; A.S.A. 1947, §§ 4-619, 4-620.

10-3-307. Submission of itemized budgets to Legislative Council.

All state agencies, departments, institutions, and offices shall submit to the Legislative Council a budget for their operation in the manner and at the times as requested by the Legislative Council. The Legislative Council shall ascertain the needs of each department of state government and all of its agencies, institutions, and offices; the number of employees required by each of them; and the necessary amount of money from public funds required to carry on the work or functions of any department, agency, institution, and office; and shall before each session of the General Assembly prepare and submit to the General Assembly an itemized budget for each department, agency, office, and institution supported by the state government.

History. Acts 1949, No. 264, § 7; A.S.A. 1947, § 4-623.

10-3-308. Presession budget briefings — Compensation.

(a)(1) The Legislative Council is authorized to conduct or cause to be conducted budget briefings for members and members-elect of the General Assembly during the presession budget hearings conducted by the Legislative Council and the Joint Budget Committee preceding each regular session and fiscal session of the General Assembly for the purpose of informing interested members and members-elect of the General Assembly concerning budget requests, executive recommendations, and Legislative Council and Joint Budget Committee recommendations regarding the budgets for the various state agencies, institutions, departments, and programs.

(2) If at any time during the Legislative Council and Joint Budget Committee hearings preceding each regular session and fiscal session of the General Assembly it appears that there is not sufficient interest or attendance by members and members-elect of the General Assembly to justify continuation of budget briefings, the cochairs and co-vice chairs of the Legislative Council are authorized to terminate any further briefings during that particular budget session.

(b) Each member of the General Assembly who will serve during the upcoming regular session or fiscal session of the General Assembly and each member-elect of the General Assembly shall be entitled to attend the budget briefings conducted pursuant to the provisions of this section. Each member attending the budget briefings shall be entitled to per diem and mileage for attending briefings at the rate prescribed by law for members of the General Assembly who attend meetings of the interim committees of the General Assembly, to be payable from moneys appropriated for payment of per diem and mileage for attendance at meetings of interim committees.

History. Acts 1983, No. 78, §§ 1, 2; A.S.A. 1947, §§ 4-628, 4-629; Acts 1997, No. 1354, § 14; 2009, No. 962, § 18.

Amendments. The 2009 amendment substituted “regular session and fiscal session” for “regular session” in (a)(1) and (a)(2); in (a)(2), substituted “Joint Budget Committee hearings” for “Committee bi-

ennial hearings,” and deleted “biennial” preceding “budget session”; and inserted “session or fiscal” following “regular” in the first sentence of (b).

Cross References. State accounting and budgetary procedures, authority of Legislative Council, § 19-4-202.

10-3-309. Review of state agency rules, regulations, amendments, revisions, etc.

(a)(1)(A) In the passage of this section, the General Assembly is aware of the significant number of laws which have been enacted granting to boards, commissions, departments, and administrative agencies of state government the authority to promulgate and enforce rules and regulations.

(B) The General Assembly is further aware that ample safeguards have not been established whereby the General Assembly may be informed of circumstances in which administrative rules and regulations do not conform to legislative intent.

(2) It is the purpose of this section to establish a method for continuing legislative review of such rules and regulations whereby the General Assembly at each legislative session may take remedial steps to correct abuses of rulemaking authority or clarify legislative intent with respect to the rulemaking authority granted the administrative boards, commissions, departments, or agencies.

(b)(1)(A) Whenever a state agency finalizes the promulgation of a rule or regulation or a revision, amendment, or change in the regulation, a copy shall be filed with the Bureau of Legislative Research if the rule or regulation contains any changes from the initial filing of the rule or regulation.

(B) A state agency shall notify the Legislative Council of its intention to repeal any rule or regulation which is on file with the bureau.

(2) As used in this section, “state agency” means any office, board, commission, department, council, bureau, or other agency of state government having authority by statute enacted by the General Assembly to promulgate or enforce the administrative rules and regulations.

(c)(1) The research staff of the bureau shall study and review all current rules, or proposed rules, and all adopted amendments and revisions of rules by state agencies and shall report to the Legislative Council in regard to them.

(2) The Legislative Council shall act in an advisory capacity to the General Assembly with respect to administrative rules and procedures and shall report to the General Assembly at each regular session all administrative rules and regulations which the Legislative Council believes to be contrary to legislative intent or promulgated without legislative authority.

(d)(1)(A) The Legislative Council may selectively review possible, proposed, or adopted rules and regulations and prescribe appropriate Legislative Council procedures for that purpose.

(B) The Legislative Council may receive and investigate complaints from members of the public with respect to possible, proposed, or adopted rules and regulations and hold public proceedings on those complaints.

(2)(A) The Legislative Council may request a representative of an agency whose possible, proposed, or adopted rule or regulation is under examination to attend a Legislative Council meeting and answer relevant questions.

(B) The Legislative Council may also communicate to the agency its nonbinding comments on any possible, proposed, or adopted rule or regulation and request the agency to respond to them in writing.

(3)(A) The Legislative Council may recommend and refer the recommendation to the appropriate committee or committees of the General Assembly:

(i) Enactment of a statute to improve the operation of an agency; and

(ii) That a particular rule or regulation be superseded in whole or in part by statute.

(B) Subdivision (d)(3)(A) of this section does not preclude any committee of the General Assembly from reviewing a rule or regulation on its own motion or recommending that it be superseded in whole or in part by statute.

(4)(A)(i) If the Legislative Council considers all or any portion of a rule or regulation to be beyond the procedural or substantive authority delegated to the adopting agency, the Legislative Council may file notice of that with the agency issuing the rule or regulation in question.

(ii) The notice shall contain a concise statement detailing the precise reasons that the Legislative Council considers the rule or regulation, or portion thereof, to be beyond the procedural or substantive authority delegated to the agency.

(B) The Legislative Council shall maintain a permanent register open to public inspection of all notices.

(C)(i) Within thirty (30) calendar days after the filing of an objection by the Legislative Council to a rule or regulation, the issuing agency shall respond in writing to the Legislative Council.

(ii) After receipt of the response, the Legislative Council may withdraw or modify its findings.

(D) The failure of the Legislative Council to file a notice regarding a rule or regulation is not an implied legislative authorization of its procedural or substantive validity.

(5) The Legislative Council may make nonbinding recommendations to an agency that it adopt a rule or regulation.

(e)(1)(A) Before any rule or regulation of any state agency may be revised, promulgated, amended, or changed, a copy of the rule or

amendment to existing rules and a financial impact statement shall be filed with the bureau at least thirty (30) days before the expiration of the period for public comment on the rule pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other acts pertaining to the rule-making authority of that agency.

(B) The scope of the financial impact statement shall be determined by the agency but shall include, at a minimum, the estimated cost of complying with the rule or regulation and the estimated cost for the agency to implement the rule or regulation.

(C) Except as provided in § 6-11-132, if the agency has reason to believe that the development of a financial impact statement will be so speculative as to be cost prohibitive, the agency shall submit a statement and explanation to that effect.

(D) If the purpose of a state agency rule or regulation is to implement a federal rule or regulation, the financial impact statement shall be limited to any incremental additional cost of the state rule or regulation as opposed to the federal rule or regulation.

(2) The bureau shall review the proposed revised or amended rule or regulation and, if it is believed that the rule or regulation is contrary to legislative intent, shall file a statement thereof with the Legislative Council.

(3) In either event, the proposed rule or regulation and any comment on the proposed rule or regulation prepared by the bureau shall be submitted to the Legislative Council at the next regular meeting following its filing with the Legislative Council.

(f)(1) In addition, before any rule or regulation of any state agency may be revised, promulgated, amended, or changed, a copy of the rule or amendment to existing rules shall be filed with the interim committees of the General Assembly having responsibility for review of that agency under Acts 1977, No. 100.

(2) The filing shall be made at least thirty (30) days before the expiration of the period for public comment on the rule, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other acts pertaining to the rulemaking authority of the agency.

(g)(1) The Joint Budget Committee shall establish the Administrative Rule and Regulation Review Subcommittee.

(2)(A) The Administrative Rule and Regulation Review Subcommittee shall consist of twenty-two (22) members of the General Assembly.

(B)(i) Nine (9) members of the Administrative Rule and Regulation Review Subcommittee shall be appointed by the Senate Cochair of the Joint Budget Committee.

(ii) The Senate Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as Senate Cochair of the Administrative Rule and Regulation Review Subcommittee.

(C)(i) Nine (9) members of the Administrative Rule and Regulation Review Subcommittee shall be appointed by the House Cochair of the Joint Budget Committee.

(ii) The House Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as House Cochair of the Administrative Rule and Regulation Review Subcommittee.

(3) The cochairs and co-vice chairs of the Legislative Council shall be ex officio members of the Administrative Rule and Regulation Review Subcommittee.

(4)(A) The Administrative Rule and Regulation Review Subcommittee may meet only during a regular, fiscal, or extraordinary session of the General Assembly.

(B) The Administrative Rule and Regulation Review Subcommittee shall meet at the call of the cochairs of the Administrative Rule and Regulation Review Subcommittee.

(5)(A) During a regular, fiscal, or extraordinary session of the General Assembly, the Administrative Rule and Regulation Review Subcommittee may perform the functions assigned to the Legislative Council under this section.

(B) Actions taken by the Administrative Rule and Regulation Review Subcommittee under subdivision (g)(5)(A) of this section have the same effect as actions taken by the Legislative Council under this section.

(C) If the Administrative Rule and Regulation Review Subcommittee meets during a regular, fiscal, or extraordinary session of the General Assembly, the Administrative Rule and Regulation Review Subcommittee shall file a report of its actions with the Legislative Council as soon as practicable.

History. Acts 1973, No. 583, §§ 1, 2, 4-6; 1979, No. 136, § 1; A.S.A. 1947, §§ 6-608, 6-608n, 6-610 — 6-612; Acts 1987, No. 85, § 1; 1995, No. 884, §§ 4, 5; 1995, No. 1104, § 2; 1997, No. 1354, § 15; 2001, No. 983, § 1; 2006 (1st Ex. Sess.), No. 38, § 2; 2011, No. 273, § 1.

Publisher's Notes. Acts 1977, No. 100,

referred to in this section is not codified since all of the actions required by that act were completed prior to the adoption of this code. The act may be found in the Appendix following this title.

Amendments. The 2011 amendment added (g).

10-3-310. Compensation of executive secretary and employees — Cooperation with Council of State Governments — Reimbursement.

(a)(1) The Executive Secretary to the Legislative Council shall be entitled to such salary as may be authorized by appropriation of the General Assembly.

(2) All other employees of the Legislative Council shall receive such remuneration as may be provided by the biennial appropriations.

(b) The Legislative Council is authorized to cooperate with the Council of State Governments and with national and regional organizations established to study governmental problems and may authorize one (1) or more of its members to attend the meetings thereof which the Council deems appropriate. Any member of the Legislative Council attending the meetings shall be reimbursed only for actual and reason-

able expenses for transportation, meals, lodging, and other necessary expenses.

History. Acts 1949, No. 264, § 8; 1963, No. 253, § 1; 1969, No. 139, § 1; 1975, No. 929, § 1; A.S.A. 1947, § 4-624.

303(b), the Executive Secretary to the Legislative Council is the Director of the Bureau of Legislative Research.

A.C.R.C. Notes. Pursuant to § 10-3-

10-3-311. Gifts and donations.

The Legislative Council is authorized to accept gifts, grants, contributions, and donations from the federal government or from private persons, associations, or corporations for use in making studies and in performing the functions and duties of the Legislative Council as prescribed by law.

History. Acts 1961 (1st Ex. Sess.), No. 41, § 1; A.S.A. 1947, § 4-627.

10-3-312. Notification of lawsuits affecting state.

(a) In order that the General Assembly may take whatever steps it deems necessary concerning lawsuits which may affect the State of Arkansas, its officials, or its financial resources:

(1) The Attorney General shall notify the Director of the Bureau of Legislative Research who is the Executive Secretary to the Legislative Council as soon as possible after the Attorney General becomes involved in such litigation;

(2) When any state agency or any entity which receives an appropriation of funds from the General Assembly becomes involved in litigation without representation by the Attorney General, the director or administrative head of the agency shall notify the Director of the Bureau of Legislative Research as soon as possible.

(b) The notice given by the Attorney General or by the director or administrative head of a state agency to the Director of the Bureau of Legislative Research shall include the style of the case being litigated, the identity of the tribunal before which the matter has been filed, a brief description of the issues involved, and other information that will enable the Legislative Council or the Joint Budget Committee to determine the action that may be deemed necessary to protect the interests of the General Assembly and the State of Arkansas in that matter.

(c) Upon receipt of the notice, the Director of the Bureau of Legislative Research shall during the interim between legislative sessions transmit a copy of the notice to the cochairs of the Legislative Council and to the cochairs of the Joint Budget Committee during legislative sessions in order that those committees may schedule that matter upon their respective agendas at the earliest possible date.

(d) During the interim between legislative sessions, the Legislative Council shall determine, and during legislative sessions the Joint Budget Committee shall determine, whether the General Assembly has

an interest in the litigation and, if so, take whatever action deemed necessary to protect the General Assembly's and the state's interest in that matter.

History. Acts 1987, No. 798, §§ 1, 2.

10-3-313. Meetings — Agenda — Procedures and practices.

(a)(1) The Review Subcommittee of the Legislative Council, the Administrative Rules and Regulations Subcommittee of the Legislative Council, and the Performance Evaluation and Expenditure Review Subcommittee of the Legislative Council shall each meet monthly on a date approximately two (2) weeks preceding the date on which regular meetings of the interim committees are held.

(2) At the meetings, the respective subcommittees shall screen the various matters required by law to be submitted to the Legislative Council by the state agencies and which have heretofore been referred to the respective subcommittees by the Legislative Council and shall determine which of such matters need further review and which are routine and need no further review or both.

(3) Those matters which the respective subcommittees determine need further review shall be referred to the respective subject matter interim committee, which committee referral shall be made by the subcommittee after taking into consideration the committee which is usually assigned such matters by the respective houses as well as the workload of the various interim committees, it being the intent to allow as much meaningful participation by the members in as many committees as possible.

(b)(1)(A) At the next regular meeting of an interim committee, all matters referred to the committee by the Legislative Council or appropriate subcommittee of the Legislative Council shall be placed on the agenda for review by the committee.

(B) When any member of the General Assembly submits any proposal or issue to the Legislative Council for legislative study or review or input, the Legislative Council shall refer the matter as follows:

(i) If the proposal states a preference on referral, the proposal shall be referred to the committee of preference unless the proposal is clearly not germane to that committee as determined by the Legislative Council;

(ii) If the proposal was initiated by the Legislative Council or by a member of the Legislative Council, the Legislative Council may appoint a subcommittee to conduct such study; and

(iii) All other proposals shall be assigned to the appropriate interim committee.

(2) Notice that such item is being placed on the meeting agenda of the interim committee may be furnished to the various state agencies involved upon direction of the cochair of the interim committee in order that the agency may be represented at the interim committee

meeting to explain the item and to answer questions in regard thereto if raised by the committee.

(3) Upon conclusion of the committee's consideration of an item, the committee or designated subcommittee thereof shall notify the state agency that it has completed its review of the item.

(4) The purpose of this subsection is to enable appropriate interim committees of the General Assembly and the various state agencies to jointly discuss the various matters referred to the respective committees in order to enable the committees to perform a legislative oversight function of keeping the General Assembly informed with respect to activities of the various agencies and to enable state agencies to receive the benefit of recommendations and comments of the respective interim committees concerning various actions or proposed actions of the agencies.

(5) The respective interim committees of the General Assembly are hereby authorized to adopt appropriate procedures and practices, including the utilization of subcommittees, to enable each committee to carry out its responsibilities under the provisions of this section.

History. Acts 1991, No. 1055, §§ 13-15, 19; 1997, No. 1354, § 16.

10-3-314. Report on claim filed with Arkansas State Claims Commission.

(a)(1) Except as provided by subsection (b) of this section, it is the intent of the General Assembly that when any state agency, board, commission, or institution of higher education admits liability to a claim filed with the Arkansas State Claims Commission and the claim involves a contract with a state agency, board, commission, or institution of higher education or the claim exceeds ten thousand dollars (\$10,000) that the agency, board, commission, or institution of higher education file a written report of the claim with the Litigation Reports Oversight Subcommittee of the Legislative Council.

(2) The report shall include a concise statement of facts with an explanation of the agency's liability.

(3) The report shall be filed with the Litigation Reports Oversight Subcommittee of the Legislative Council within thirty (30) days after the claim has been adjudicated by the Arkansas State Claims Commission.

(b) The Arkansas Lottery Commission shall file its written report under subsection (a) of this section with the Arkansas Lottery Commission Legislative Oversight Committee.

History. Acts 1995, No. 607, § 27; 1995, No. 993, § 9; 1995 (1st Ex. Sess.), No. 16, § 20; 1997, No. 264, § 1; 2009, No. 605, § 13; 2009, No. 606, § 13; 2011, No. 777, § 1.

A.C.R.C. Notes. Former § 10-3-314,

concerning reports on claims filed with the State Claims Commissioner, is deemed to be superseded by this section. The former section was derived from Acts 1993, No. 860, § 29.

Acts 2012, No. 153, § 15, provided:

"CLAIMS AWARD REPORTING. It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve thousand five hundred dollars (\$12,500) that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Acts 2012, No. 259, § 14, provided: **"CLAIMS AWARD REPORTING.** It is the intent of the General Assembly that when any state agency, board, commission or institution of higher education admits liability to a claim filed with the State Claims Commission and the claim involves a contract with a state agency, board, commission or institution of higher education or the claim exceeds twelve thousand five hundred dollars (\$12,500)

that such agency, board, commission or institution of higher education file a written report thereof to the Litigation Subcommittee of the Arkansas Legislative Council. Such report shall include a concise statement of facts with an explanation of the agency's liability. Provided further, such report shall be filed with the Litigation Subcommittee within thirty (30) days after the claim has been adjudicated by the State Claims Commission."

Amendments. The 2009 amendment by identical acts Nos. 605 and 606 added (b), redesignated the remaining text accordingly, inserted "Except as provided by subsection (b) of this section" in (a), and made a related change.

The 2011 amendment redesignated former (a) as (a)(1) through (3); inserted "Arkansas" preceding "State Claims Commission" in the section heading and in (a)(1) and (3); in (a)(1), substituted "ten thousand dollars (\$10,000)" for "seven thousand five hundred dollars (\$7,500)" and "of the claim" for "thereof" and inserted "Reports Oversight" preceding "Subcommittee" near the end; and substituted "Litigation Reports Oversight Subcommittee of the Legislative Council" for "litigation subcommittee" in (a)(3).

Cross References. Claims against the State, § 19-10-101 et seq.

Report of agency liability, § 19-10-212.

10-3-315. Information and records.

(a) For purposes of this section, "state agency" means every department, division, office, board, commission, and institution of this state, including state-supported institutions of higher education.

(b) Every state agency shall provide the Bureau of Legislative Research with information, records, and access to electronic databases and files when requested by the bureau, unless prohibited by federal or state law.

(c) Information and records requested by the bureau shall be provided as soon as possible and in whatever reasonable form, hard copy, electronic, etc., requested.

(d) State agencies shall also make their staff reasonably accessible for consultation with bureau staff.

History. Acts 1995, No. 1312, § 9; 1997, No. 1285, § 11.

10-3-316. Charitable, Penal and Correctional Institutions Subcommittee.

The cochairs of the Legislative Council shall appoint a member of the Senate Committee on City, County, and Local Affairs and a member of the House Committee on City, County, and Local Affairs to serve as members of the Charitable, Penal and Correctional Institutions Subcommittee of the Legislative Council.

History. Acts 1997, No. 1285, § 24.

apply to this section which was enacted

A.C.R.C. Notes. The reference to “§ 10-3-301 et seq.” in § 10-3-203 may not

subsequently.

10-3-317. Disclosure of school district information and records — Access to electronic databases of the Department of Education.

(a)(1) The Department of Education shall provide the Bureau of Legislative Research with direct read-and-report-only access to the department’s data warehouse concerning school districts and related records.

(2) In providing the bureau with the direct read-and-report-only access required under subdivision (a)(1) of this section, the department shall take reasonable precautions, including electronic blocking or redacting, to prevent the disclosure of:

(A) Personally identifiable information of a student unless the parent or guardian of a minor student or a student who is no longer a minor consents in writing to the disclosure of personally identifiable information about that student; or

(B) Information that would cause the department to lose funding under the provisions of 20 U.S.C. § 1232g, as it existed on January 1, 2007.

(3)(A) The department shall make its staff reasonably accessible for consultation with bureau staff in developing and responding appropriately to bureau requests under this section.

(B) The bureau staff shall inform the department of any warehouse data used in the preparation of reports and provide the department at least one (1) working day to review any student-related warehouse data used in preparation of reports prior to publicly releasing that student-related data without individually identifiable information.

(b) The department shall provide other information and records requested by the bureau as soon as possible and in whatever reasonable form requested.

History. Acts 2007, No. 624, § 1.

apply to this section which was enacted

A.C.R.C. Notes. The reference to “§ 10-3-301 et seq.” in § 10-3-203 may not

subsequently.

SUBCHAPTER 4 — LEGISLATIVE JOINT AUDITING COMMITTEE

SECTION.

- 10-3-401. Creation.
- 10-3-402. Purpose and definitions.
- 10-3-403. Members — Selection.
- 10-3-404. Tenure — Vacancies — Alternates.
- 10-3-405. Meetings.
- 10-3-406. Meetings during legislative session.
- 10-3-407. Duties — Cochairs.
- 10-3-408. Rules and regulations.
- 10-3-409. Compensation of Legislative Auditor and employees —

SECTION.

- Cooperation with Council of State Governments — Reimbursement.
- 10-3-410. Abolishment or consolidation of agencies.
- 10-3-411. Investigation and audit of state or local entities — Subpoenas — Contempt.
- 10-3-412 — 10-3-420. [Reserved.]
- 10-3-421. [Repealed.]
- 10-3-422 — 10-3-424. [Repealed.]

A.C.R.C. Notes. Acts 1995 (1st Ex. Sess.), No. 10, § 16, provided: "Nothing in this act shall affect any statutorily created subcommittee of a joint interim committee."

Cross References. Institute of Legislative Procedure, § 10-2-123.

Special early retirement allowances, colleges to report, § 24-7-101.

Effective Dates. Acts 1955, No. 105, § 26: Feb. 24, 1955. Emergency clause provided: "Whereas, the Sixtieth General Assembly is faced with the problem of appropriating funds for the operation of state government; and whereas, additional information is needed for a proper determination of the needs of the various agencies and departments of government; and whereas, it is believed that future sessions of the General Assembly should be advised of the method in which state funds are administered in order that the General Assembly might properly discharge its duty of appropriating state funds, and that such information can be furnished only by the immediate passage of this act, now, therefore an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1963, No. 499, § 4: Mar. 20, 1963. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Legislative Joint Auditing Committee is charged with the duty by law of post auditing of all state agencies and departments; that the post auditing

thereof is a proper and necessary function of the General Assembly in verifying that state funds are properly and legally expended; that the members of said committee will be appointed during the Regular Session of the General Assembly and must meet immediately upon adjournment of the General Assembly to properly discharge the duties authorized by law, and that the providing of an adequate per diem as an expense allowance for each day spent in attending meetings of said committee is essential to the proper and efficient functions of the committee, and that only by the immediate passage of this act may such committee properly function. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 411, § 3: Mar. 20, 1965. Emergency clause provided: "It is hereby found and determined by the General Assembly that a majority of the members of the Legislative Council are selected by caucus of the members of the House of Representatives from each of the six congressional districts as established by Act 297 of 1951; that such manner of selection was designed to assure that the membership of the Legislative Council would be composed of a broad cross-section of the members of the House of Representatives from the various areas of the state and would represent the views of the members of the House of Representatives from the various sections of the state; that there is

some uncertainty in the present law regarding whether or not the two members of each district selected by caucus must be from different counties of the district, and that this act will clarify the law in this respect; that the members of the Legislative Council will be selected sometime prior to the adjournment of the Sixty-Fifth General Assembly and that it is desirable that this act become effective immediately in order to clarify this situation prior to the selection of such members. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1967, No. 107, § 3: Feb. 20, 1967. Emergency clause provided: "It is hereby found and determined that under the laws of this state the members of the House and Senate from each of the six congressional districts established by Act 297 of 1951 are to caucus for the selection of members and alternate members of the Legislative Council and the Legislative Joint Auditing Committee; that the reapportionment of the seats of the House and Senate has resulted in a number of members of the House and Senate being elected from Representative or Senatorial districts that comprise counties in more than one congressional district; and, that immediate clarification of the method to be followed in the conduct of the respective caucuses for the selection of such members and alternates is essential in order that each of these two important joint ad interim committees of the General Assembly may be properly selected during the current Regular Session of the General Assembly as required by law. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1967, No. 147, § 3: became law without Governor's signature, Feb. 24, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the membership of the Legislative Joint Auditing Committee is not large enough to permit an equitable distribution of its members among the various sections of the state, and that an

equitable distribution of the members thereof is necessary in order that the various sections of the state and the various interests in each section can be properly represented, and that this act will correct this situation. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1967, No. 353, § 2: Mar. 14, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Speaker of the House of Representatives and the President Pro Tem of the Senate are not now members of the Legislative Joint Auditing Committee, and by virtue of the responsible positions they hold, it is essential that the Speaker of the House and the President Pro Tem of the Senate be added to the membership of said committee and that this act will correct this situation. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 662, § 3: Apr. 10, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Legislative Joint Auditing Committee was directed by Act 105 of 1955 to provide for the auditing of each department, institution, board, commission, office, and agency of the state government of Arkansas, and that by subsequent legislation the Division of Local Audits was transferred to the Division of Legislative Audit and operates under the auditing jurisdiction of the Legislative Joint Auditing Committee; that many audits of state agencies, cities, counties, and school districts reflect discrepancies in the handling or administering of public funds or the expenditure thereof, and other irregularities which cannot be fully determined by the Legislative Auditor or members of his staff; that in order to enable the Legislative Joint Auditing Committee to make a full determination of all facts and circumstances necessary in connection with an audit it is essential that the Legislative Joint Auditing Committee be authorized to subpoena individuals, books, records, and documents that may be necessary to make a full determination

of all facts essential to the completion of any such investigation; and that the immediate passage of this act is necessary to authorize the Legislative Joint Auditing Committee to issue subpoenas whenever the committee determines that the same is necessary for a proper discharge of its duties in keeping the General Assembly informed with respect to the handling and administration of public funds. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975, No. 929, § 3: Apr. 8, 1975. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly that the Arkansas Legislative Council and the Arkansas Joint Auditing Committee have many matters of pressing importance to be considered, that said committees will be selected during the Regular Session of the General Assembly and will meet upon adjournment of the General Assembly and that establishment of an adequate and proper per diem, expense allowance and mileage reimbursement for attending meetings of such committees is necessary for the proper discharge of the duties of said committees. Now, therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 371, § 5: Mar. 7, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Legislative Joint Auditing Committee should be authorized to meet during the General Assembly and that the transacting of business by the Legislative Joint Auditing Committee will serve to the benefit of the people of the State of Arkansas and that this act will provide for this action. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 988, §§ 5, 7: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the workload of the

Legislative Joint Auditing Committee and its staff has increased substantially in recent years; that the committee is called upon more and more to conduct federally mandated audits of state agencies and the various subdivisions of the state, which federal audits must be conducted and reported in a different manner and format than regular audits conducted by the committee and its staff; that it is essential to the effective and efficient administration of the primary responsibilities of the committee that a procedure be established whereby the committee can properly determine whether time and staff limitations will permit the committee to make particular federal audits which are requested and that this act is designed to establish such procedure; and that this procedure should be initiated beginning with the 1981-82 fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1981."

Acts 1987, No. 84, § 4: Feb. 25, 1987. Emergency clause provided: "It is hereby found and determined that the House of Representatives and Senate select their members to the Legislative Council and Legislative Joint Auditing Committee from the old six congressional districts; that the selection from the present four congressional districts would be more equitable; that the selection is to be made prior to adjournment of this legislative session; and therefore, this act must go into effect as soon as possible to grant the House and Senate the authority to change the method of selection of its members to the Legislative Council and the Joint Auditing Committee. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 542, § 7: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that this act affects the method of selection of members of the House of Representatives to the Legislative Council, Legislative Joint Auditing Committee and the Joint Budget Committee; and that this act is immediately necessary to provide for the proper selection of such mem-

bers during the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995 (1st Ex. Sess.), No. 10, § 24: Oct. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to the operation of interim committees of the General Assembly unduly restricts the interim work of the General Assembly by authorizing committees to meet only as joint committees of the House of Representatives and the Senate; that in order to enable the Senate and House of Representatives to efficiently and effectively perform their interim duties, it is necessary that the interim committees of each house be authorized to meet either jointly or separately and that this act should be given effect immediately to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 147, § 14: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council

and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 466, § 9: Feb. 28, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the Legislative Joint Auditing Committee should now have co-chairpersons and co-vice chairpersons instead of a chairperson and vice-chairperson; that this act so provides; that these officers will be selected by the Legislative Joint Auditing Committee as soon as it organizes after the adjournment of this regular session; and that unless this act goes into effect immediately, the Committee will not be able to select its co-chairpersons until perhaps months after its initial meeting. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2201, § 12: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Legislative Joint Auditing Committee and the Division of Legislative Audit provide essential auditing and investigative services to the General Assembly and the State of Arkansas; that to avoid confusion, the General Assembly finds it is necessary to combine the Arkansas Code provisions concerning the Division of Legislative Audit and the local audit section of the divi-

sion in one Arkansas Code chapter; that to avoid certain undue hardships on public entities of the state, it is also necessary for the General Assembly to provide a basis of financial statement presentation for certain public entities; that the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; and that this act is immediately necessary because the General Assembly finds that the public disclosure of such unsubstantiated allegations do not

serve a public purpose and may cause irreparable harm to innocent individuals and public employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-3-401. Creation.

There is established a committee of the General Assembly to be known as the "Legislative Joint Auditing Committee". It is the intention of the General Assembly that this shall be a joint interim committee of the General Assembly.

History. Acts 1955, No. 105, § 1; A.S.A. 1947, § 4-701.

10-3-402. Purpose and definitions.

(a) It is determined that adequate information is not available at each biennial session of the General Assembly through which the members of the General Assembly may determine the needs and legislative requirements of the various agencies, departments, or other entities of the state government and political subdivisions of the state and that the impartial periodic auditing of entities of the state and political subdivisions of the state will provide information which will facilitate the discharge by the General Assembly of its legislative responsibilities.

(b) Due to time restraints and the size, complexity, and scope of the entities of the state and its political subdivisions, it is determined that the sixty-day legislative session is not an adequate time in which to audit entities of the state and political subdivisions of the state.

(c) It is further determined that the Legislative Joint Auditing Committee shall exist and operate as a joint interim committee of the General Assembly and in such capacity shall serve the General Assembly as the proper agency to provide for the impartial auditing, independently of the executive branch of state government, of entities of the state and political subdivisions of the state.

(d) It is not the intent of this act, nor shall this act be construed, to infringe upon or deprive the executive or judicial branches of state government of any rights, powers, or duties vested in or imposed upon them by the Constitution of Arkansas.

(e) It is the intent of this act merely to provide the General Assembly with adequate information which will facilitate the exercise by it of its constitutional powers and none other.

(f) For the purposes of this subchapter:

(1) “Audit” means a financial audit, performance audit, information technology audit, review, report of agreed-upon procedures, compilation, examination, investigation, or other report or procedure approved by the Legislative Joint Auditing Committee for an entity of the state or a political subdivision of the state;

(2) “Entity of the state” means the State of Arkansas as a whole or any department, institution of higher education, board, commission, agency, or quasi-public organization, or any official, office, or employee, or any agency, instrumentality, or function thereof;

(3) “Other funds” means any funds or assets held by a person, foundation, nonprofit corporation, or any other entity for the specific benefit of a particular entity or entities of the state or political subdivision of the state;

(4) “Political subdivision of the state” means any county, municipality, school, quasi-public organization, district, official, office, employee, or any agency, instrumentality, or function thereof;

(5) “Public funds” means any funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by, or passed through an entity of the state or a political subdivision of the state; and

(6) “School” means any public school district, charter school, or education service cooperative, or any publicly supported entity having supervision over public educational entities.

(g) The definitions in this subchapter are limited to this subchapter only, and shall not be used or interpreted as applying to the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 1955, No. 105, § 4; A.S.A. 1947, § 4-704; Acts 2005, No. 2201, § 1; 2007, No. 617, § 36. 10-3-407 — 10-3-409, and 10-4-101 — 10-4-116 [repealed].

Amendments. The 2007 amendment substituted “education service cooperative” for “educational cooperative” in (f)(6). Acts 2005, No. 2201, codified as §§ 10-3-402 — 10-3-404, 10-3-406, 10-3-407, 10-3-410, 10-3-411, 10-4-401 — 10-4-427, 14-77-102, 16-21-1107 and 16-21-2007.

Meaning of “this act”. Acts 1955, No. 105, codified as §§ 10-3-401 — 10-3-405, **Cross References.** Freedom of Information Act of 1967, § 25-19-101 et seq.

10-3-403. Members — Selection.

(a) The Legislative Joint Auditing Committee shall consist of members of the General Assembly to be selected as follows:

(1)(A) The Senate shall select sixteen (16) members in accordance with procedures prescribed by the Rules of the Senate.

(B)(i) At the time of selecting members, the Senate shall also select in the same manner one (1) first alternate and one (1) second alternate for each member selected.

(ii) The first alternates shall also be nonvoting members of the Legislative Joint Auditing Committee and shall be entitled to receive per diem and mileage for attending all meetings of the Legislative Joint Auditing Committee.

(iii) First alternate members of the Legislative Joint Auditing Committee shall have a vote in matters before the Legislative Joint Auditing Committee if the regular member which the first alternate represents is not in attendance.

(iv) Second alternate members of the Legislative Joint Auditing Committee shall have a vote in matters before the Legislative Joint Auditing Committee if the regular member and first alternate member which the second alternate represents are not in attendance.

(v) First alternate members attending as nonvoting members of the Legislative Joint Auditing Committee shall receive per diem and mileage to be paid in the same manner and from the same source as regular members of the Legislative Joint Auditing Committee;

(2)(A) The House of Representatives shall select twenty (20) members in accordance with the procedure prescribed by the Rules of the House of Representatives.

(B)(i) At the time of selecting members, the House shall also select in the same manner one (1) first alternate and one (1) second alternate for each member selected.

(ii) The first alternates shall also be nonvoting members of the Legislative Joint Auditing Committee and shall be entitled to receive per diem and mileage for attending all meetings of the Legislative Joint Auditing Committee.

(iii) First alternate members of the Legislative Joint Auditing Committee shall have a vote in matters before the Legislative Joint Auditing Committee if the regular member which the first alternate represents is not in attendance.

(iv) Second alternate members of the Legislative Joint Auditing Committee shall have a vote in matters before the Legislative Joint Auditing Committee if the regular member and first alternate member which the second alternate represents are not in attendance.

(v) First alternate members attending as nonvoting members of the Legislative Joint Auditing Committee shall receive per diem and mileage to be paid in the same manner and from the same source as regular members of the Legislative Joint Auditing Committee; and

(3)(A) The Speaker of the House of Representatives, the President Pro Tempore of the Senate, the immediate past chair or cochairs of the Legislative Joint Auditing Committee, and the cochairs and co-vice chairs of the Legislative Council shall be ex officio members of the Legislative Joint Auditing Committee and shall enjoy all the rights and privileges of other members of the Legislative Joint Auditing Committee.

(B) If the immediate past House Cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House of Representatives may appoint a member of the House to serve in the stead of the immediate past House cochair.

(C) If the immediate past Senate Cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(D) If the House Cochair of the Legislative Council has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Council elect a cochair of the Legislative Council.

(E) If the House Co-vice Chair of the Legislative Council has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Council elect a co-vice chair of the Legislative Council.

(b) No member of the Legislative Joint Auditing Committee shall be a regular member of the Legislative Council, but may be a first or second alternate member of the Legislative Council.

History. Acts 1955, No. 105, §§ 2, 3; 2005, No. 2201, § 1; 2007, No. 321, § 2; 1965, No. 411, § 1; 1967, No. 107, § 1; 2009, No. 248, § 2.

1967, No. 147, §§ 1, 2; 1967, No. 353, § 1; **Publisher's Notes.** Acts 1995, No. 1350 became law without the Governor's signature.

A.S.A. 1947, §§ 4-617.1, 4-617.3, 4-702, 4-703; Acts 1987, No. 84, § 2; 1993, No. 542, § 2; 1995, No. 1350, § 3; 1995 (1st Ex. Sess.), No. 10 § 18; 1997, No. 147, § 8; **Amendments.** The 2007 amendment added (a)(3)(D) and (E).

2001, No. 288, § 2; 2001, No. 466, § 1; The 2009 amendment deleted former (b).

10-3-404. Tenure — Vacancies — Alternates.

(a) Tenure of membership and means of filling vacant positions for members of the House of Representatives shall be as prescribed by the Rules of the House of Representatives.

(b) Tenure of membership and the means of filling vacant positions for members of the Senate shall be as prescribed by the Rules of the Senate.

History. Acts 1955, No. 105, §§ 2, 3; A.S.A. 1947, §§ 4-702, 4-703; Acts 1997, 1967, No. 147, §§ 1, 2; 1967, No. 353, § 1; No. 1354, § 5; 2005, No. 2201, § 1.

10-3-405. Meetings.

(a) The Legislative Joint Auditing Committee shall meet upon call or announcement by either cochair or upon petition of ten (10) of the regular members of the Legislative Joint Auditing Committee.

(b)(1) The official meeting place of the Legislative Joint Auditing Committee shall be in that portion of the State Capitol Building assigned to the General Assembly by § 10-3-1105.

(2) However, the Legislative Joint Auditing Committee may meet at any other designated place it may deem necessary to the carrying out of its official business.

History. Acts 1955, No. 105, § 5; A.S.A. 1947, § 4-705; Acts 2001, No. 466, § 2.

10-3-406. Meetings during legislative session.

(a) The Legislative Joint Auditing Committee is authorized to meet and transact its normal business during all legislative sessions as provided in this section.

(b)(1) If members of the House of Representatives and members of the Senate each have selected their respective cochair for the new biennial period, either cochair may call a meeting of the Legislative Joint Auditing Committee members during legislative sessions.

(2)(A) If members of the House and members of the Senate each have not selected their respective cochair for the new biennial period, meetings of the Legislative Joint Auditing Committee during the legislative session shall be called by either cochair of the Legislative Joint Auditing Committee, who shall be the person who served in this capacity prior to the commencement of the current General Assembly.

(B)(i) The Legislative Joint Auditing Committee shall consist of the members of the General Assembly who served on the Legislative Joint Auditing Committee prior to the commencement of the current General Assembly.

(ii) If any regular member of the Legislative Joint Auditing Committee is no longer serving in the General Assembly, then this vacancy shall be assumed by the first or second alternate as provided by law.

(c) In the meetings, primary consideration shall be given to matters that require immediate attention and that cannot wait until the conclusion of the legislative session.

History. Acts 1977, No. 371, §§ 1-3; A.S.A. 1947, §§ 4-705.1 — 4-705.3; Acts 2001, No. 466, § 3; 2005, No. 2201, § 2.

10-3-407. Duties — Cochairs.

(a) The duties of the Legislative Joint Auditing Committee shall be to provide for the auditing of any entity of the state or political subdivision of the state for the purpose of furnishing the General Assembly with information vital to the discharge of its constitutional duties.

(b)(1) Immediately after its organization, the Legislative Joint Auditing Committee shall commence the performance of its duties herein prescribed.

(2) The Senate members of the Legislative Joint Auditing Committee shall select one (1) of their number as cochair and one (1) of their number as co-vice chair.

(3) The House members of the Legislative Joint Auditing Committee shall select one (1) of their number as cochair and one (1) of their number as co-vice chair.

(4) The Senate cochair shall appoint all Senate Legislative Joint Auditing Committee members to subcommittees of the Legislative Joint Auditing Committee, and the House cochair shall appoint all House Legislative Joint Auditing Committee members to subcommittees of the Legislative Joint Auditing Committee.

(5) The Senate cochair shall appoint a Senate Legislative Joint Auditing Committee member as cochair of each of the Legislative Joint Auditing Committee's subcommittees, and the House cochair shall appoint a House Legislative Joint Auditing Committee member as the cochair of each of the subcommittees of the Legislative Joint Auditing Committee.

(6) The Senate cochair and the House cochair shall alternate in presiding at meetings of the Legislative Joint Auditing Committee unless the cochairs otherwise agree.

History. Acts 1955, No. 105, § 4; A.S.A. 1947, § 4-704; Acts 2001, No. 466, § 4; 2005, No. 2201, § 3.

10-3-408. Rules and regulations.

The Legislative Joint Auditing Committee may establish any rules and regulations as it may deem fit which are not inconsistent with law.

History. Acts 1955, No. 105, § 6; A.S.A. 1947, § 4-706.

10-3-409. Compensation of Legislative Auditor and employees — Cooperation with Council of State Governments — Reimbursement.

(a)(1) The Legislative Auditor shall be entitled to such salary as may be authorized by appropriation of the General Assembly.

(2) All other employees of the Legislative Joint Auditing Committee shall receive such remuneration as may be provided by the biennial appropriations.

(b) The Legislative Joint Auditing Committee is authorized to cooperate with the Council of State Governments and with national and regional organizations established to study governmental problems and may authorize one (1) or more of its members to attend the meetings thereof which the Legislative Joint Auditing Committee deems appropriate. Any member of the Legislative Joint Auditing Committee attending the meetings shall be reimbursed only for actual and reasonable expenses for transportation, meals, lodging, and other necessary expenses.

History. Acts 1955, No. 105, § 7; 1963, No. 499, § 1; 1969, No. 139, § 2; 1975, No. 929, § 2; A.S.A. 1947, § 4-707.

10-3-410. Abolishment or consolidation of agencies.

The Legislative Joint Auditing Committee is authorized to recommend to the General Assembly the abolishment or consolidation of any entity of the state which the Legislative Joint Auditing Committee deems appropriate as a result of its review of audits performed by its staff.

History. Acts 1981, No. 949, § 1; A.S.A. 1947, § 4-718; 2005, No. 2201, § 4. became law without the Governor's signature.

Publisher's Notes. Acts 1981, No. 949

10-3-411. Investigation and audit of state or local entities — Subpoenas — Contempt.

(a)(1) The Legislative Joint Auditing Committee has the authority to conduct investigations or audits pertaining to the affairs of any entity of the state or political subdivision of the state whenever the Legislative Joint Auditing Committee determines that investigations are necessary to make a proper determination with respect to the operations of the entity of the state or political subdivision of the state or any agency or instrumentality of them, or of the collection, handling, administration, or expenditure of any public funds or assets allocated, received, managed, directed, handled, or disbursed by or on behalf of the entity.

(2)(A) In addition, the Legislative Joint Auditing Committee has the authority to investigate documents, books, and records regarding receipt, expenditure, or disbursement of other funds if the Legislative Joint Auditing Committee or its executive committee determines that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(B)(i) Nothing in this section shall be construed as authorizing or permitting the release of information prohibited by law or not subject to public inspection under the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law.

(ii)(a) All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation, or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure.

(b) Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(3)(A) In connection with investigations or audits, the Legislative Joint Auditing Committee has the authority to examine any or all books, records, or any other data or systems relative to the investigation or audit, confidential or otherwise, irrespective of the custodian or location of the records.

(B) However, in the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the

Legislative Joint Auditing Committee or its executive committee must approve the Legislative Auditor's determination that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(b)(1) Any member of the General Assembly, by written request filed with the Legislative Joint Auditing Committee at least six (6) days prior to any regular or special meeting of the Legislative Joint Auditing Committee, may request an investigation or audit of any entity for which the Legislative Joint Auditing Committee and the Division of Legislative Audit has the authority to audit.

(2) Upon the vote of the majority of the membership of the Legislative Joint Auditing Committee approving the request, the Legislative Auditor shall conduct the investigation or audit.

(c) In connection with any investigations or audits, the Legislative Joint Auditing Committee has the right and power to subpoena witnesses and to issue subpoenas duces tecum.

(d) All subpoenas shall be issued by either cochair of the Legislative Joint Auditing Committee, or by either co-vice chair acting in the absence of either cochair, after the issuance of the subpoenas has been approved by a majority vote of the membership of the Legislative Joint Auditing Committee at a duly called meeting with all members of the Legislative Joint Auditing Committee having received no fewer than six (6) days' advance notice of the meeting.

(e)(1) The reasons for, and purposes of, the proposed subpoena or subpoenas, including the names of the persons or the nature and identification of all books, records, and documents for which subpoenas are being considered, shall be furnished in writing to the members of the Legislative Joint Auditing Committee in the notice mailed to the members not less than six (6) days in advance of the meeting at which the question of issuing the subpoenas is to be considered.

(2) No subpoenas shall be issued under the provisions of this section until such time as any individual or the individual holding the books, records, or documents sought by the Legislative Joint Auditing Committee has received a formal written invitation to appear before the Legislative Joint Auditing Committee by certified registered mail at least thirty (30) days prior to a regular or special meeting of the Legislative Joint Auditing Committee and that individual has failed or refused to appear before the Legislative Joint Auditing Committee at the meeting.

(f) The cochairs and the co-vice chairs of the Legislative Joint Auditing Committee are authorized to administer oaths.

(g)(1)(A) Subpoenas issued by the Legislative Joint Auditing Committee shall be served by the sheriff of the county in which the person, books, records, or documents subpoenaed are located.

(B) The sheriff shall be entitled to the same fees for the service of process as provided by law for service of process issued by the circuit court.

(2) The Legislative Joint Auditing Committee at its option may direct the Department of Arkansas State Police to serve any subpoena.

(h) Witnesses subpoenaed to appear before the Legislative Joint Auditing Committee shall be entitled to witness fees and travel allowances at the same rate as provided by law for witnesses subpoenaed to appear in civil actions in circuit court.

(i) The fees for the serving of subpoenas and all witness fees and travel allowances shall be paid from funds appropriated for the maintenance and operation of the Legislative Joint Auditing Committee.

(j)(1) If any person subpoenaed to appear before the Legislative Joint Auditing Committee shall fail to appear or to produce books, documents, or records subpoenaed by the Legislative Joint Auditing Committee, the fact shall be certified to the circuit court of the county in which the hearing is held.

(2) The court shall punish the person for contempt of the General Assembly in the same manner as punishment for contempt is imposed for failure to respond to a subpoena or directive of the court.

(k)(1)(A) It is the intent of this section to authorize the Legislative Joint Auditing Committee to:

(i) Issue subpoenas;

(ii) Compel the attendance of witnesses;

(iii) Administer oaths when necessary; and

(iv) Make full investigations or determinations whenever the Legislative Joint Auditing Committee determines:

(a) They are necessary with respect to the affairs of any entity of the state or political subdivision of the state; and

(b) Investigations are necessary to discharge its duties.

(B) It is not the intent of this section to repeal, reduce, or diminish the authority vested by law in the Legislative Auditor to issue subpoenas whenever the Legislative Auditor determines that they are necessary to assist the Legislative Auditor or the staff of the Legislative Auditor in making a complete audit.

(2) This section shall be cumulative to Acts 1955, No. 105, and all laws amendatory to that act.

History. Acts 1973, No. 662, §§ 1, 2; A.S.A. 1947, §§ 4-709, 4-709n; Acts 2001, No. 466, §§ 5, 6; 2005, No. 2201, § 5.

Publisher's Notes. Acts 1955, No. 105, referred to in this section, is codified as §§ 10-3-401 — 10-3-405, 10-3-407 — 10-

3-409, and 10-4-101 — 10-4-116 [repealed].

Cross References. Contempt of court, § 16-10-108.

Fees of sheriffs, § 21-6-307.

Witness fees, § 16-43-801.

10-3-412 — 10-3-420. [Reserved.]

10-3-421. [Repealed.]

Publisher's Notes. This section, concerning the creation of the Federal Audit Subcommittee, was repealed by Acts 2001,

No. 466, § 7. The section was derived from Acts 1981, No. 988, § 1; A.S.A. 1947, § 4-719.

10-3-422 — 10-3-424. [Repealed.]

Publisher's Notes. These sections, concerning state agency requests for federal audits, were repealed by Acts 2005, No. 2201, § 6. They were derived from the following sources:

10-3-422. Acts 1981, No. 988, § 2; A.S.A. 1947, § 4-720.

10-3-423. Acts 1981, No. 988, § 3; A.S.A. 1947, § 4-721.

10-3-424. Acts 1981, No. 988, § 4; A.S.A. 1947, § 4-722.

SUBCHAPTER 5 — JOINT BUDGET COMMITTEE**SECTION.**

10-3-501. Act supplemental.

10-3-502. Membership.

10-3-503, 10-3-504. [Repealed.]

10-3-505. [Repealed.]

SECTION.

10-3-506. [Repealed.]

10-3-507. Presession budget hearings.

10-3-508. Duties.

10-3-509. Meeting during the interim.

A.C.R.C. Notes. Acts 1995 (1st Ex. Sess.), No. 10, § 16, provided: "Nothing in this act shall affect any statutorily created subcommittee of a joint interim committee."

Effective Dates. Acts 1981, No. 939, § 3: became law without Governor's signature, Apr. 8, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that an enlarged Joint Budget Committee is necessary to provide for proper consideration of appropriation bills and budget proposals submitted for consideration by the General Assembly, and the immediate passage of this act is necessary in order that the Senate and the House of Representatives of the Seventy-Third General Assembly may select the members of the Joint Budget Committee to serve at the next following Regular Session of the General Assembly, and to authorize the members of the Joint Budget Committee to attend the pre-session budget hearings of the Legislative Council held prior to the convening of the Regular Session of the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 224, § 5: Feb. 28, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that im-

portant decisions affecting budgets vital to essential programs of government are yet to be dealt with by this Regular Session; that clarification of the membership of the Joint Budget Committee is essential to the efficient operation of said committee for the remainder of this 75th Session of the General Assembly, and at future legislative sessions, and that the immediate passage of this act is necessary to accomplish such clarification in order to expedite the business of this Regular Session of the General Assembly. Therefore, an emergency is hereby declared to exist and this act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 832, § 7: Mar. 27, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present composition of the Joint Budget Committee is in immediate need of change; this act so provides; and that this act shall go into effect immediately in order to change the membership of the Joint Budget Committee prior to the adjournment of this regular session. Therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 542, § 7: Mar. 16, 1993. Emergency clause provided: "It is hereby

found and determined by the General Assembly that this act affects the method of selection of members of the House of Representatives to the Legislative Council, Legislative Joint Auditing Committee and the Joint Budget Committee; and that this act is immediately necessary to provide for the proper selection of such members during the Seventy-Ninth General Assembly. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1312, § 36: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety, Sections 9 as added by House Amendment 1, 12 as added by House Amendment 4, and 15 through 19 as added by House Amendment 10 shall be in full force and effect from and after the date of passage and approval and the remainder of the act shall be in full force and effect from and after July 1, 1995."

Acts 1995 (1st Ex. Sess.), No. 10, § 24: Oct. 23, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current law relating to the operation of interim committees of the General Assembly unduly restricts the interim work of the General Assembly by authorizing committees to meet only as joint committees of the House of Representatives and the Senate; that in order to enable the Senate and House of Representatives to efficiently and effectively perform their interim duties, it is necessary that the interim committees of each house be authorized to

meet either jointly or separately and that this act should be given effect immediately to accomplish this purpose. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1285, § 32: Approved April 9, 1997: Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety Section 10 of this act shall be in full force and effect from and after the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, Section 10 shall become effective on the expiration of the period of time during which the governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, Section 10 shall become effective on the date the last house overrides the veto. The remaining sections of this act shall become effective from and after July 1, 1997."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the

expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 221, § 7: Feb. 13, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that the current incremental line-item system of budgeting is ineffective in evaluating agency performance; that to implement a replacement system in a reasonable time is a difficult task and that to delay the implementation could cause the inability to meet critical deadlines. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Gov-

ernor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 2100, § 22: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2005 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2005 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2005."

10-3-501. Act supplemental.

This act is supplemental to the existing laws of this state pertaining to the selection of members of the Joint Budget Committee and shall modify only those portions of such laws or parts of laws as are specifically in conflict herewith.

History. Acts 1985, No. 224, § 4; A.S.A. 1947, § 4-304.7.

Meaning of "this act". Acts 1985, No. 224, codified as §§ 10-3-501 and 10-3-502.

10-3-502. Membership.

(a)(1)(A) The Joint Budget Committee shall consist of:

- (i) The current cochair of the Legislative Council;
- (ii) The immediate past cochair of the Legislative Council;
- (iii) The current cochair of the Legislative Joint Auditing Committee;
- (iv) The immediate past cochair of the Legislative Joint Auditing Committee;
- (v) Twenty-four (24) members and eight (8) alternate members of the House of Representatives; and
- (vi) Twenty-four (24) members of the Senate.

(B) If the immediate past House Cochair of the Legislative Council is not a member of the House, the Speaker of the House of Representatives may appoint a member of the House to serve in the stead of the immediate past House cochair.

(C) If the immediate past Senate Cochair of the Legislative Council is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(D) If the immediate past House Cochair of the Legislative Joint Auditing Committee is not a member of the House, the Speaker of the House of Representatives may appoint a member of the House to serve in the stead of the immediate past House cochair.

(E) If the immediate past Senate Cochair of the Legislative Joint Auditing Committee is not a member of the Senate, the President Pro Tempore of the Senate may appoint a member of the Senate to serve in the stead of the immediate past Senate cochair.

(F) If the House Cochair of the Legislative Council has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Council elect a cochair of the Legislative Council.

(G) If the House Cochair of the Legislative Joint Auditing Committee has not been elected, the Speaker of the House of Representatives may appoint a member of the House to serve until the House members of the Legislative Joint Auditing Committee elect a cochair of the Legislative Joint Auditing Committee.

(2) The Senate Vice Chair of the Joint Budget Committee shall be selected in the same manner as the Senate Vice Chair of the Legislative Joint Auditing Committee.

(b)(1) The House shall select the members and their alternates in accordance with the procedure prescribed by the Rules of the House of Representatives.

(2) The first alternate members shall also be nonvoting members of the Joint Budget Committee and shall be entitled to receive per diem and mileage for attending meetings of the Joint Budget Committee.

(3) First alternate members of the Joint Budget Committee shall have a vote in matters before the Joint Budget Committee if a regular member whom the first alternate represents is not in attendance.

(4) Second alternate members of the Joint Budget Committee shall have a vote in matters before the Joint Budget Committee if a regular member and a first alternate member whom the second alternate represents are not in attendance.

(c)(1) The Senate members of the Joint Budget Committee shall be selected in accordance with procedures prescribed by the Rules of the Senate.

(2) One (1) Senate alternate member shall be selected from each congressional district.

(3) Alternate members shall also be nonvoting members of the Joint Budget Committee and shall be entitled to receive per diem and mileage for attending meetings of the Joint Budget Committee.

(4) First alternate members attending as nonvoting members of the Joint Budget Committee shall receive per diem and mileage to be paid in the same manner and from the same source as regular members of the Joint Budget Committee.

(d) The chairs of the Personnel Subcommittee of the Legislative Council, the Review Subcommittee of the Legislative Council, the Performance Evaluation and Expenditure Review Subcommittee of the Legislative Council, and the Claims Subcommittee of the Legislative Council shall serve as ex officio nonvoting members of the corresponding Joint Budget Committee subcommittees.

History. Acts 1979, No. 157, § 1; 1981, No. 939, § 1; 1985, No. 224, § 1; A.S.A. 1947, §§ 4-304, 4-304.5; Acts 1991, No. 832, § 1; 1993, No. 393, § 1; 1993, No. 542, § 3; 1995, No. 1312, § 19; 1995, No. 1350, § 4; 1995 (1st Ex. Sess.), No. 10, § 19; 1997, No. 1285, § 22; 2003, No. 1002, § 2; 2003, No. 1083, § 1; 2003, No. 1091, §§ 3, 4; 2005, No. 2100, § 16; 2007, No. 321, § 3.

A.C.R.C. Notes. The version of this section as amended by Acts 1991, No. 295, § 1, was repealed by Acts 1993, No. 517, § 6. This section, as amended by Acts 1991, No. 295, § 1, read as follows: "In

each biennial session of the General Assembly there shall be a Joint Budget Committee of the General Assembly which shall be composed of twenty-four (24) members, twelve (12) of whom shall be members of the Arkansas Senate and twelve (12) of whom shall be members of the House of Representatives. There shall be one (1) alternate member for each member. The Senate members and the House members and their alternates shall be selected in the manner provided in §§ 10-3-503 and 10-3-504."

Amendments. The 2007 amendment added (a)(1)(F) and (G).

10-3-503, 10-3-504. [Repealed.]

Publisher's Notes. These sections, concerning Senate members and House members of the Joint Budget Committee and the Speaker-designate of the House of Representatives, were repealed by Acts 1993, No. 517, § 6. They were derived from the following sources:

10-3-503. Acts 1985, No. 224, § 2;

A.S.A. 1947, § 4-304.6; Acts 1991, No. 295, § 4.

10-3-504. Acts 1981, No. 975, §§ 1-3; 1983, No. 18, § 1; A.S.A. 1947, §§ 4-304.2—4-304.4; Acts 1989, No. 48, § 1; 1991, No. 295, § 2; 1991, No. 419, §§ 1 and 2; 1991, No. 420, § 1.

10-3-505. [Repealed.]

Publisher's Notes. This section, concerning vacancies in Senate positions, was repealed by Acts 1991, No. 832, § 3. The section was derived from Acts 1985, No. 224, § 2; A.S.A. 1947, § 4-304.6.

Because of some uncertainty as to the legal effect of Acts 1991, No. 832, this section was also repealed by Acts 1993, No. 517, § 6.

10-3-506. [Repealed.]

Publisher's Notes. This section, concerning vacancies in House positions, was repealed by Acts 1993, No. 517, § 6. The

section was derived from Acts 1979, No. 157, § 1; 1981, No. 939, § 1; A.S.A. 1947, § 4-304; Acts 1991, No. 295, § 3.

10-3-507. Presession budget hearings.

(a) The members appointed to serve on the Joint Budget Committee at the next-following regular session of the General Assembly who are not members of the Legislative Council shall be privileged to attend all

presession budget hearings of the Legislative Council held after the October 1 preceding the next regular session of the General Assembly.

(b) All such members of the Joint Budget Committee who are not regular members of the Legislative Council shall be given notice of all presession budget hearings scheduled by the Legislative Council and shall be privileged to attend the budget hearings and to participate therein and vote on budget recommendations the same as regular members of the Legislative Council.

(c) The members shall be entitled to receive per diem and mileage for attendance at such presession budget hearings of the Legislative Council at the same rates provided by law for attendance at meetings of the interim committees of the General Assembly, and payment therefor shall be made as follows:

(1) Regular members of the Legislative Joint Auditing Committee who are appointed to the Legislative Council shall receive per diem and mileage for attendance at Legislative Council presession budget hearings from funds appropriated for the Legislative Joint Auditing Committee;

(2) Members of either house of the General Assembly who are not regular members of the Legislative Council or regular members of the Legislative Joint Auditing Committee shall receive the per diem and mileage from funds appropriated for the payment of per diem and mileage for attendance at meetings of the interim committees of the General Assembly; and

(3) Members of the Legislative Council shall receive per diem and mileage from funds appropriated for the support of the Legislative Council.

(d) The House Chair of the Special Language Subcommittee of the Joint Budget Committee shall serve on the corresponding subcommittee of the Legislative Council and Joint Budget Committee presession budget hearings as an ex officio nonvoting member.

History. Acts 1979, No. 157, § 1; 1981, 1997, No. 1354, § 17; 2005, No. 2100, No. 939, § 1; A.S.A. 1947, § 4-304; Acts § 17.

10-3-508. Duties.

In addition to participation by members of the Joint Budget Committee in the presession budget hearings of the Legislative Council, as authorized in § 10-3-507, the Joint Budget Committee during a regular session, a fiscal session, and a special session of the General Assembly shall perform any duties as are provided by the Joint Rules of the House of Representatives and the Senate.

History. Acts 1979, No. 157, § 1; 1981, No. 939, § 1; A.S.A. 1947, § 4-304; Acts 2009, No. 962, § 19.

Amendments. The 2009 amendment

substituted "Joint Budget Committee during a regular session, fiscal session, and a special session" for "Committee during regular and special sessions."

10-3-509. Meeting during the interim.

(a) The House of Representatives members of the Joint Budget Committee shall serve as an interim committee to be known as the House Interim Budget Committee.

(b) The Joint Budget Committee and the House Interim Budget Committee shall be authorized to meet during the interim to work on budgetary and other matters as come before the Joint Budget Committee.

(c) The members of the Joint Budget Committee shall be paid per diem and mileage reimbursement from moneys appropriated for the payment of per diem and mileage for members of the General Assembly when attending meetings of interim committees.

History. Acts 1993, No. 1221, § 1; 1997, No. 1354, § 2; 2001, No. 221, § 5.

SUBCHAPTER 6 — JOINT COMMITTEE ON LEGISLATIVE PRINTING REQUIREMENTS AND SPECIFICATIONS

SECTION.

10-3-601. Intent.

10-3-602. Creation — Composition.

10-3-603. Meetings — Officers — Compensation.

SECTION.

10-3-604. Duties.

10-3-605. State Procurement Director — Contracts.

Effective Dates. Acts 1967, No. 508, § 7: Apr. 4, 1967. Emergency clause provided: "It is hereby found and determined by the General Assembly that in order for the General Assembly to properly perform its duties within the limited time of each Regular Session, adequate specifications and safeguards must be developed to assure the General Assembly of quality printing, with prompt performance under printing contracts, and that in order to establish procedures whereby adequate specifications and safeguards may be incorporated within future printing contracts for legislative requirements, the immediate passage of this act is necessary. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 16, § 5: Feb. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is immediately necessary to provide for the selection of co-chairmen of

the Joint Committee on Legislative Printing Requirements and Specifications and that until this Act becomes effective the selection cannot occur. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the

expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

10-3-601. Intent.

It is the intent of this subchapter to establish procedures whereby the types of contracts to be let for legislative printing or duplicating requirements may be determined after study and review of the printing or duplicating needs of the General Assembly. Adequate specifications and safeguards may be established for such contracts in order that the State Procurement Director of the Office of State Procurement of the Department of Finance and Administration might be advised thereof in the letting of contracts for legislative printing or duplicating requirements.

History. Acts 1967, No. 508, § 4; 1975, No. 544, § 14; A.S.A. 1947, § 4-904.

10-3-602. Creation — Composition.

There is established a joint interim committee of the General Assembly, consisting of the chair and vice chair of the respective efficiency committees of the House of Representatives and Senate, the Speaker of the House of Representatives or his or her designee, and the President Pro Tempore of the Senate, which committee shall be designated and be known as the "Joint Committee on Legislative Printing Requirements and Specifications".

History. Acts 1967, No. 508, § 1; A.S.A. 1947, § 4-901; Acts 2009, No. 84, § 2.

Amendments. The 2009 amendment inserted "or his or her designee."

10-3-603. Meetings — Officers — Compensation.

(a)(1) The Joint Committee on Legislative Printing Requirements and Specifications shall meet subsequent to the adjournment of each regular session of the General Assembly, at a time to be determined jointly by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, and shall select from its membership two (2) cochairs, one (1) cochair to be a member of the House of Representatives to be elected by the members of the Joint Committee on Legislative Printing Requirements and Specifications who are members of the House and one (1) cochair to be a Senator to be elected by the members of the Joint Committee on Legislative Printing Requirements and Specifications who are members of the Senate.

(2) The Joint Committee on Legislative Printing Requirements and Specifications may elect such other officers as it deems necessary for the performance of its duties.

(b)(1) The two (2) cochairs shall preside at each meeting of the Joint Committee on Legislative Printing Requirements and Specifications or may rotate from meeting to meeting as presiding officers as they determine.

(2) A majority vote of the full membership of the Joint Committee on Legislative Printing Requirements and Specifications shall be necessary to take final action on any matter.

(3) The Joint Committee on Legislative Printing Requirements and Specifications may establish rules for its procedures and shall meet upon call of the cochairs thereof, upon call by a majority of its members, or at other intervals as may be established in its rules.

(c)(1) Members of the Joint Committee on Legislative Printing Requirements and Specifications shall receive per diem for attending meetings of the Joint Committee on Legislative Printing Requirements and Specifications or other official business of the Joint Committee on Legislative Printing Requirements and Specifications at the rate provided by law for attendance by members of the General Assembly at meetings of interim committees and, in addition, shall receive mileage for travel in attending meetings or other official business of the Joint Committee on Legislative Printing Requirements and Specifications at the rate provided by law for state employees.

(2) Per diem and mileage of members of the Joint Committee on Legislative Printing Requirements and Specifications shall be paid from any appropriation made for paying per diem, expenses, and mileage of members of the interim committees.

History. Acts 1967, No. 508, § 2; A.S.A. 1947, § 4-902; Acts 1991, No. 16, § 1; 1997, No. 1354, § 18.

10-3-604. Duties.

It shall be the duty of the Joint Committee on Legislative Printing Requirements and Specifications to:

(1) Study and review all purchases by the General Assembly of printing and duplicating services and stationery;

(2) Designate those items which should be purchased under commercial term contracts awarded by the State Procurement Director, those items which should be purchased under one-time commercial contracts awarded by the director, and those items of printing or duplicating that can be best accomplished by facilities operated by the General Assembly or its staff or by another state agency and paid for on a cost basis through an intergovernmental transfer of funds;

(3) Promulgate standards, specifications, and regulations governing the size, composition, and printing or duplicating processes that shall be used in furnishing printing or duplicating services for the General Assembly and certify the specifications and requirements to the director, who shall incorporate the specifications and requirements in contracts to be let for legislative printing needs;

(4) Establish requirements for the furnishing of bonds for performance under legislative printing or duplicating contracts, establish penalty provisions for failure to perform under the terms of the contracts, and establish procedures for the evaluation of performance under those contracts for the purpose of determining when the penalty provisions shall be invoked, and the amount thereof, in case of breach of contract or failures to fulfill contracts within the terms thereof;

(5) Make any additional rules, regulations, or specifications and advise the director for incorporation in legislative printing or duplicating contracts as the Joint Committee on Legislative Printing Requirements and Specifications determines necessary in order that the efficiency of the General Assembly might be expedited.

History. Acts 1967, No. 508, § 3; 1975, No. 544, § 14; A.S.A. 1947, § 4-903.

10-3-605. State Procurement Director — Contracts.

The State Procurement Director shall incorporate into all contracts for legislative printing or duplicating requirements the specifications, bond requirements, penalty provisions, and other requirements as may be certified to it by the Joint Committee on Legislative Printing Requirements and Specifications and shall let contracts for legislative printing or duplicating requirements in accordance therewith in the manner now established by law.

History. Acts 1967, No. 508, § 4; 1975, No. 544, § 14(B); A.S.A. 1947, § 4-904.

SUBCHAPTER 7 — RETIREMENT COMMITTEES

SECTION.

10-3-701. Joint Committee on Public Retirement and Social Security Programs — Creation — Members.

10-3-702. Bills referred to Joint Committee on Public Retirement

SECTION.

and Social Security Programs — Fiscal note.

10-3-703. Joint Interim Committee on Public Retirement and Social Security Programs — Members — Duties.

Cross References. Public employees' retirement system, § 24-4-101 et seq.

Public employees' social security, § 24-1-201 et seq.

Effective Dates. Acts 1975, No. 289, § 2: Mar. 3, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that each session of the General Assembly considers numerous bills proposing amendments, changes, or additions to the publicly supported retirement systems, and that due

to the limitations of the time available during each Regular and Special Session, there are not sufficient opportunities to adequately study and review many aspects of the retirement systems that would be affected by such proposed legislation; and that the establishment of a Joint Interim Committee of the General Assembly to serve as an overview committee over the various retirement systems is essential to the proper functioning of the General Assembly; and that the immedi-

ate passage of this act is necessary in order to establish the Joint Interim Committee on Public Retirement and Social Security Programs in order that said committee may enter upon its duties immediately upon adjournment of the Seventieth Session of the General Assembly. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 964, § 3: became law without Governor's signature, Apr. 8, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the increased work load of the Joint Committee on Public Retirement and Social Security Programs makes it necessary to enlarge the membership of said committee in order to provide for larger participation of the members of the House and Senate in the decisions of said committee, and to provide for a more equitable distribution of the work load of said committee, and that the immediate passage of this act is necessary in order that the additional members of said Joint Committee may be appointed by the Speaker of the House of Representatives and the Committee on Committees of the Senate to serve during the remainder of the Regular Session of the Seventy-Third General Assembly, and as members of the Joint Interim Committee on Public Retirement and Social Security Programs for the interim between adjournment of the Seventy-Third General Assembly and the convening of the Seventy-Fourth General Assembly. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying

out its duties. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 139, § 5: Feb. 2, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Joint Committee on Public Retirement and Social Security Programs should be composed of an equal number of members in the Arkansas Senate and the Arkansas House of Representatives; that under present law there exist more House members than Senate members; and that this act equalizes the membership of that committee and should be given immediate effect in order to be applicable to the committee meetings of the legislative session now in progress. Therefore an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1130, § 5: Apr. 10, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Joint Committee on Public Retirement and Social Security Programs deals with very complicated and important issues relating to the various public retirement systems; that it is essential that new members appointed to serve on the committee at each regular session of the General Assembly have considerable knowledge concerning the various retirement systems in order to intelligently vote on legislation coming before the committee which may seriously affect the financial well-being of the systems; that with term limits the only practical way to enable future members of the committee to gain the knowledge and experience in retirement matters needed to serve as regular members of the committee is to permit interested House members to serve as non-voting members of the committee during the interim between sessions; and that this act is designed to permit such interim service and should be given effect immediately. Therefore an emergency is hereby declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and

effect from and after its passage and approval.”

Acts 1997, No. 94, § 5: Feb. 5, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that the method prescribed by law for selecting the House cochairman and House co-vice-chairman of the Joint Committee on Public Retirement and Social Security Programs violates the rules of the House of Representatives; that the selection of committee officers is an internal affair of the chamber which should be addressed by rule; that the conflicting statutory provision results in confusion and hampers the efficient operation of the House; that this act will eliminate the conflict and make the law compatible with the other laws relating to House committees; that clarification should be accomplished as soon as possible in order to minimize disruption of the operation of the committee during this regular session and hereafter. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2003, No. 24, § 4: Jan. 29, 2003. Emergency clause provided: “It is found and determined by the General Assembly that the membership of the interim committees addressed by this act should be modified to reflect a better representation of the House and Senate; that this act accomplishes that purpose; that the committees identified by this act may commence meeting immediately upon adjournment of this session, and that unless

this emergency clause is adopted, the modification of the membership will not occur for three months after the date of adjournment resulting in either obsolete membership for the first three months of the interim or a three-month delay in the committees commencing their work. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 237, § 2: Mar. 9, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the provisions of § 10-3-702(b)(4) and (5) are cumulative to other provisions of Arkansas law, namely §§ 24-1-104, 24-1-105, and 24-1-106, which prevent the enactment of a legislated benefit enhancement which would cause a retirement system’s unfunded accrued actuarial liabilities to exceed a thirty-year amortization; and that the provisions of § 10-3-702(b)(4) constitute an impermissible attempt to dictate the procedural rules of the Eighty-Sixth General Assembly as well as any future General Assembly. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

10-3-701. Joint Committee on Public Retirement and Social Security Programs — Creation — Members.

(a) There is established a joint committee of the House of Representatives and the Senate to be known as the “Joint Committee on Public

Retirement and Social Security Programs”, to consist of twenty (20) members.

(b)(1) The ten (10) House members and ten (10) House alternates shall be selected as prescribed by the Rules of the House of Representatives.

(2) The House Cochair of the Joint Committee on Public Retirement and Social Security Programs and House Co-vice Chair of the Joint Committee on Public Retirement and Social Security Programs shall be selected in accordance with the Rules of the House of Representatives.

(3) In addition to the regular House members appointed under subdivision (b)(1) of this section, the Speaker of the House of Representatives shall appoint, during each regular session, one (1) additional House member from each caucus district to serve as a nonvoting member of the Joint Committee on Public Retirement and Social Security Programs only during the interim between sessions of the General Assembly.

(c)(1) At the commencement of each regular session of the General Assembly, ten (10) members of the Senate shall be named pursuant to the Rules of the Senate to serve on the Joint Committee on Public Retirement and Social Security Programs. Vacancies shall be filled pursuant to the Rules of the Senate.

(2) Pursuant to the Rules of the Senate, one (1) Senate member of the Joint Committee on Public Retirement and Social Security Programs shall be designated to serve as Senate Cochair of the Joint Committee on Public Retirement and Social Security Programs and one (1) Senate member shall be designated to serve as Senate Co-vice Chair of the Joint Committee on Public Retirement and Social Security Programs.

History. Acts 1975, No. 289, § 1; 1981, 517, § 1; 1995, No. 139, § 1; 1995, No. No. 964, § 1; A.S.A. 1947, § 4-1101; Acts 1130, § 1; 1997, No. 94, § 1; 2001, No. 1992 (1st Ex. Sess.), No. 30, § 1; 1993, No. 627, § 2; 2003, No. 24, § 1.

10-3-702. Bills referred to Joint Committee on Public Retirement and Social Security Programs — Fiscal note.

(a) All bills introduced in either house of the General Assembly to amend any of the existing publicly supported retirement systems laws of this state or to establish new or expanded public retirement or social security programs shall be referred to the Joint Committee on Public Retirement and Social Security Programs.

(b)(1) The Joint Committee on Public Retirement and Social Security Programs shall cause a fiscal note to be prepared and attached to each bill reflecting estimated cost or fiscal impact of the bill upon the revenues of the State of Arkansas and its various agencies and upon the actuarial soundness of the retirement systems.

(2)(A) In connection with the preparation of the fiscal notes, the Joint Committee on Public Retirement and Social Security Programs is authorized to request the respective retirement systems to review proposed retirement bills and to furnish the Joint Committee on

Public Retirement and Social Security Programs with an evaluation thereof in writing.

(B) If the Joint Committee on Public Retirement and Social Security Programs deems it necessary, the services of actuaries may be obtained in evaluating the respective bills, provided that funds have been provided for that purpose.

(3)(A) No bill amending an existing publicly supported retirement system by increasing the multiplier, changing terms of or allowing the purchase of credited service, shortening vesting periods or shortening the years of service required for standard retirement without penalty, or which would establish a new or expanded public retirement program, shall be acted upon in either house until the fiscal note provided for in subsection (a) of this section has been attached to the bill, two-thirds ($\frac{2}{3}$) of the Joint Committee on Public Retirement and Social Security Programs has recommended the passage of the bill, and the Joint Committee on Public Retirement and Social Security Programs has reported its recommendations in regard to the bill.

(B) However, upon suspension of the Joint Rules of the House of Representatives and the Senate, a retirement system bill may be withdrawn from further consideration by the Joint Committee on Public Retirement and Social Security Programs and may be acted upon without a report of the Joint Committee on Public Retirement and Social Security Programs being attached thereto.

History. Acts 1975, No. 289, § 1; A.S.A. 1947, § 4-1102; Acts 1995, No. 883, § 1; 1997, No. 93, § 1; 2007, No. 237, § 1.

Amendments. The 2007 amendment deleted (b)(4) and (b)(5).

Cross References. Fiscal impact statements, § 10-2-114.

10-3-703. Joint Interim Committee on Public Retirement and Social Security Programs — Members — Duties.

(a) Upon adjournment of each regular session, fiscal session, and special session of the General Assembly, the Joint Committee on Public Retirement and Social Security Programs is designated and constituted as a joint interim committee of the General Assembly to be known as the "Joint Interim Committee on Public Retirement and Social Security Programs".

(b) The Joint Interim Committee on Public Retirement and Social Security Programs shall consist of the members appointed to the Joint Committee on Public Retirement and Social Security Programs during each regular session of the General Assembly, and they shall serve thereon until the next following regular session, at which time all members shall be appointed in the manner provided in § 10-3-701.

(c) The Joint Interim Committee on Public Retirement and Social Security Programs shall make continuing review of the statistics, actuarial solvency, adequacy of benefits, and all other aspects of the publicly supported retirement systems of this state. The Joint Interim

Committee on Public Retirement and Social Security Programs shall also study and review all proposals for changes or amendments to any of the existing public retirement laws or for the creation of new or expanded public retirement systems and shall report its findings and recommendations to each session of the General Assembly in regard to each such proposal. Any member of the General Assembly, the boards of trustees and administrators of the publicly supported retirement systems of this state, and any member of any system may present information and request the review by the Joint Interim Committee on Public Retirement and Social Security Programs of proposed changes in the various retirement systems.

(d) The Joint Interim Committee on Public Retirement and Social Security Programs shall periodically report to the Legislative Council on the status of its studies and findings. The Joint Interim Committee on Public Retirement and Social Security Programs shall undertake such special studies as may be referred to the Joint Interim Committee on Public Retirement and Social Security Programs by the Legislative Council and report to the Legislative Council in regard thereto.

(e) In the event a vacancy occurs on the Joint Interim Committee on Public Retirement and Social Security Programs, the vacancy shall be filled in the same manner as provided in subsection (b) of this section for the original appointment.

History. Acts 1975, No. 289, § 1; A.S.A. 1947, § 4-1103; Acts 2009, No. 962, § 20.

Amendments. The 2009 amendment

substituted “regular session, fiscal session, and special session” for “regular and special session” in (a).

SUBCHAPTER 8 — ENERGY COMMITTEES

SECTION.

10-3-801. Subchapter supplemental.

10-3-802. Joint Committee on Energy — Membership — Cochairs.

10-3-803. Duties of Joint Committee on Energy.

10-3-804 — 10-3-819. [Reserved.]

10-3-820. Joint Interim Committee on Energy — Members — Duties.

SECTION.

10-3-821. Joint Interim Committee on Energy — Meetings — Cooperation with other states.

10-3-822. Joint Interim Committee on Energy — Expenses — Staff.

Preambles. Acts 1979, No. 8 contained a preamble which read: “Whereas, this nation is facing a severe energy crisis due to the decline of worldwide supplies of petroleum and natural gas; and

“Whereas, Arkansas has long enjoyed limited supplies of natural gas and petroleum, but these reserves are rapidly being depleted and Arkansas, as well as the nation, will be facing an increasing energy problem; and

“Whereas, it is in the public interest that the General Assembly cooperate with the Governor, the appropriate administrative agencies of this state, and appropriate state and federal agencies and the Congress in making continual review of the energy problems and needs, and to explore means by which this state can participate with other states and the federal government in resolving energy problems;

“Now therefore....”

Effective Dates. Acts 1979, No. 8, § 7: Jan. 30, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is a nationwide energy crisis which threatens the economy of this state and of the nation, and poses an immediate and future peril to the health, safety, and welfare of the people of this state, and immediate steps are needed to coordinate the research, planning, and consideration of energy problems and the development of comprehensive and meaningful legislation to deal with these problems, and that the immediate passage of this act is necessary to enable the Seventy-Second General Assembly to establish a standing committee which will make studies, not only during Regular Sessions of the General Assembly, but in the interim period between Legislative Sessions designed to keep the General Assembly of this state fully in contact with the development of meaningful solutions to the energy problems, and in the development of legislation to carry out such solutions. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 15, § 5: Feb. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is immediately necessary to provide for the appointment of alternate members of the Joint Committee on Energy and that until this Act becomes effective such appointments cannot be made. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying out its duties. Therefore, an emergency is

hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 24, § 4: Jan. 29, 2003. Emergency clause provided: "It is found and determined by the General Assembly that the membership of the interim committees addressed by this act should be modified to reflect a better representation of the House and Senate; that this act accomplishes that purpose; that the committees identified by this act may commence meeting immediately upon adjournment of this session, and that unless this emergency clause is adopted, the modification of the membership will not occur for three months after the date of adjournment resulting in either obsolete membership for the first three months of the interim or a three-month delay in the committees commencing their work. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 380, § 3: Mar. 17, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Senate Rules adopted for the Eighty-fourth General Assembly provide for ten (10) Senate members on the Joint Committee on Energy and ten (10) Senate members on the Joint Performance Review Committee; that the statutes relating to those committees indicate seven (7) Senate members on each committee; that the statutes further provide that the Senate members are selected according to Senate Rules; that until the statutes are amended, there will be a conflict between the Senate Rules and the statutes; and that it is imperative that the Senate Rules and the statutes not be in conflict. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is

neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

10-3-801. Subchapter supplemental.

The provisions of this subchapter shall be in addition and supplemental to the laws of this state and the Rules of the House of Representatives and the Rules of the Senate pertaining to the standing and interim committees of the General Assembly and of the House of Representatives and Senate.

History. Acts 1979, No. 8, § 6; A.S.A. 1947, § 4-1205n.

10-3-802. Joint Committee on Energy — Membership — Co-chairs.

(a) There is created a joint standing committee of the House of Representatives and the Senate to be known as the "Joint Committee on Energy".

(b)(1) The Joint Committee on Energy shall be a select committee of the House of Representatives and Senate whose members shall be chosen as follows:

(A)(i) Ten (10) members of the Senate to be named pursuant to the Rules of the Senate.

(ii) Each Senate member is authorized to appoint a member of the Senate to serve as his or her alternate on the Joint Committee on Energy; and

(B)(i) Fifteen (15) members of the House of Representatives to be selected as prescribed by the Rules of the House of Representatives.

(ii) One (1) alternate member for each of the fifteen (15) House members shall be selected as prescribed by the Rules of the House of Representatives.

(2) Senate members and alternate Senate members of the Joint Committee on Energy shall be appointed at each regular biennial session of the General Assembly and shall serve until the convening of the next regular session of the General Assembly.

(c) Members appointed to the Joint Committee on Energy shall serve on the Joint Committee on Energy in addition to their service on the regular standing and select committees of the Senate.

(d)(1)(A) One (1) of the Senate members of the Joint Committee on Energy shall be designated pursuant to the Rules of the Senate to serve as the Senate Cochair of the Joint Committee on Energy.

(B) The Speaker of the House of Representatives shall designate two (2) of the House members appointed to the Joint Committee on Energy to serve as the House Cochair of the Joint Committee on Energy and the House Co-vice Chair of the Joint Committee on Energy.

(2) The cochairs of the Joint Committee on Energy shall preside at alternate meetings of the Joint Committee on Energy unless the cochairs shall agree otherwise.

History. Acts 1979, No. 8, §§ 1, 2; 1995, No. 1330, § 1; 2001, No. 627, § 3; A.S.A. 1947, §§ 4-1201, 4-1202; Acts 1991, 2003, No. 24, § 2; 2003, No. 380, § 1; No. 15, § 1; 1991, No. 995, § 2; 1992 (1st Ex. Sess.), No. 32, § 1; 1993, No. 517, § 2; 2003, No. 1473, § 19.

10-3-803. Duties of Joint Committee on Energy.

Bills pertaining to energy sources, supplies, needs, and problems shall be referred to the Joint Committee on Energy. In addition, the Joint Committee on Energy shall make continuing studies and shall cooperate with the appropriate agencies of this state, agencies of the United States Government, and the Congress of the United States in the exchange and dissemination of information and in the development of legislation, designed to promote the conservation and efficient utilization of existing energy sources, and in developing new energy sources to meet the needs of this and future generations.

History. Acts 1979, No. 8, § 2; A.S.A. 1947, § 4-1202.

10-3-804 — 10-3-819. [Reserved.]

10-3-820. Joint Interim Committee on Energy — Members — Duties.

(a) The members of the House of Representatives and the Senate appointed at each regular session of the General Assembly to the Joint Committee on Energy shall constitute a joint interim committee of the

General Assembly to function in the interim between the sine die adjournment or extended recess of the regular session or fiscal session of each General Assembly until the convening of the next regular session or fiscal session of the General Assembly or reconvening of the current General Assembly during an extended recess. This joint interim committee shall be known as the “Joint Interim Committee on Energy” and shall function in addition to the other interim committees of the General Assembly established by law. In the event a vacancy shall occur on the Joint Interim Committee on Energy, the vacancy shall be filled in the same manner as provided for the initial appointment.

(b) The Joint Interim Committee on Energy shall make continuing studies of energy resources and problems, either initiated by the Joint Interim Committee on Energy or referred to it by either house of the General Assembly for study, in the interim between sessions of the General Assembly. Interim study proposals and resolutions filed with the Legislative Council under the provisions of § 10-3-214 for review and referral to the appropriate germane interim committee of the General Assembly, relating to energy, shall be referred to the Joint Interim Committee on Energy. The Joint Interim Committee on Energy shall undertake each study referred to it by members of the General Assembly or by the Legislative Council and shall submit a report of its findings and recommendations in regard to each study request prior to the convening of the next regular session of the General Assembly.

(c) In addition, the Joint Interim Committee on Energy shall exercise leadership in the interim between legislative sessions and shall attempt to coordinate the various energy activities, studies, and planning activities of the General Assembly which relate to the conservation, development, and use of energy resources for the various committees of the General Assembly.

(d) The Joint Interim Committee on Energy shall cooperate with the Governor, the appropriate administrative agencies of this state, legislative and administrative agencies of other states, and with the federal government, including participation in regional and national meetings and seminars of state and federal officials in the exchange of information and data on energy resources, supplies, reserves, and in the conservation, storage, and use of energy, including the disposal of energy waste and by-products.

History. Acts 1979, No. 8, § 3; A.S.A. 1947, § 4-1203; Acts 1997, No. 1354, § 19; 2009, No. 962, § 21.

substituted “regular session or fiscal session” for “regular session” twice in the first sentence of (a).

Amendments. The 2009 amendment

10-3-821. Joint Interim Committee on Energy — Meetings — Cooperation with other states.

(a) The Joint Interim Committee on Energy shall meet upon call by either or both of the cochairs of the Joint Interim Committee on Energy, or at such other times as may be provided in the rules of the Joint

Interim Committee on Energy, or upon written call by any five (5) of its members.

(b) The Joint Interim Committee on Energy shall cooperate with the Southwest Regional Energy Council, the Council of State Governments, the Southern Legislative Conference, the Southern States Energy Board, the National Conference of State Legislatures and its committees, and other appropriate conferences or associations of public officials concerned with the problems of energy for the purpose of coordinating the combined energy activities and resources of the legislative departments of the respective states in efforts to assist the Congress of the United States and the federal government in coordinating state and national programs for the conservation, preservation, and use of our energy resources.

History. Acts 1979, No. 8, § 5; A.S.A. 1947, § 4-1205.

10-3-822. Joint Interim Committee on Energy — Expenses — Staff.

(a) The per diem and mileage, including reimbursement for expenses for attending out-of-state meetings as provided by law, shall be paid from funds appropriated for per diem, mileage, and expenses of members of the General Assembly for attending interim committee meetings or from other funds provided by law for that purpose.

(b) The Bureau of Legislative Research shall furnish such staff assistance as may be requested by the Joint Interim Committee on Energy. The Arkansas Energy Office and all other appropriate state agencies shall be available to assist and advise the Joint Interim Committee on Energy on energy matters as may be requested by the Joint Interim Committee on Energy.

History. Acts 1979, No. 8, § 4; A.S.A. 1947, § 4-1204; Acts 1997, No. 1354, § 20.

SUBCHAPTER 9 — JOINT PERFORMANCE REVIEW COMMITTEE

SECTION.

10-3-901. Creation — Members — Meetings — Expenses.

SECTION.

10-3-902. Duties.

10-3-903. Employment of personnel.

Effective Dates. Acts 1983, No. 798, § 3: Mar. 24, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the membership of the Joint Performance Review Committee should be increased and such new members should assume duties upon

adjournment of the General Assembly, and that unless this emergency clause is adopted the effective date of this act will be ninety (90) days subsequent to adjournment. Therefore, an emergency is hereby declared to exist and this act being immediately necessary for the preservation of

the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying out its duties. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 24, § 4: Jan. 29, 2003. Emergency clause provided: "It is found and determined by the General Assembly that the membership of the interim committees addressed by this act should be modified to reflect a better representation of the House and Senate; that this act accomplishes that purpose; that the com-

mittees identified by this act may commence meeting immediately upon adjournment of this session, and that unless this emergency clause is adopted, the modification of the membership will not occur for three months after the date of adjournment resulting in either obsolete membership for the first three months of the interim or a three-month delay in the committees commencing their work. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2003, No. 380, § 3: Mar. 17, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Senate Rules adopted for the Eighty-fourth General Assembly provide for ten (10) Senate members on the Joint Committee on Energy and ten (10) Senate members on the Joint Performance Review Committee; that the statutes relating to those committees indicate seven (7) Senate members on each committee; that the statutes further provide that the Senate members are selected according to Senate Rules; that until the statutes are amended, there will be a conflict between the Senate Rules and the statutes; and that it is imperative that the Senate Rules and the statutes not be in conflict. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-3-901. Creation — Members — Meetings — Expenses.

(a)(1) There is hereby created the “Joint Performance Review Committee”, which shall consist of twenty (20) members of the House of Representatives to be selected as prescribed by the Rules of the House of Representatives and ten (10) members of the Senate to be appointed pursuant to the Rules of the Senate.

(2)(A) There shall be a Senate cochair and a House cochair and a Senate co-vice chair and a House co-vice chair of the committee.

(B)(i) The House cochair and House co-vice chair shall be selected according to the Rules of the House of Representatives.

(ii) The Senate cochair and Senate co-vice chair shall be selected according to the Rules of the Senate.

(b)(1) The House members of the committee and the Senate members of the committee may meet separately as separate committees of the House and Senate or may meet jointly as a joint committee at such times as to which the House and Senate membership agree to the holding of joint meetings.

(2) The committee may meet at such places within the state as it deems appropriate.

(c) At all joint meetings of the committee, a quorum shall consist of a majority of the Senate members of the committee and a majority of the House members of the committee.

(d) All votes taken at each joint meeting of the committee shall be by separate Senate vote and separate House vote, and no motion shall pass unless it receives a favorable vote of the majority of the members of the House committee and a favorable vote of the majority of the members of the Senate committee.

(e) Members of the committee shall be entitled to per diem and mileage at the rate provided by law to be paid from funds appropriated for payment of per diem and mileage for attendance at meetings of interim committees of the House and Senate.

(f)(1)(A) When meeting as a joint committee, the committee may subpoena persons, documents, and records upon approval of a majority of the House membership of the committee and a majority of the Senate membership of the committee.

(B) However, no action of the joint committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the committee or upon a two-thirds ($\frac{2}{3}$) vote of the House membership of the committee and a two-thirds ($\frac{2}{3}$) vote of the Senate membership of the committee.

(2)(A) If the House members meet as a separate committee under subsection (b) of this section, the House committee may subpoena persons, documents, and records upon approval of a majority of the membership of the House committee.

(B) However, no action of the House committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the House committee or upon a two-thirds ($\frac{2}{3}$) vote of the membership of the House committee.

(3)(A) If the Senate members meet as a separate committee under subsection (b) of this section, the Senate committee may subpoena persons, documents, and records upon approval of a majority of the membership of the Senate committee.

(B) However, no action of the Senate committee regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the Senate committee or upon a two-thirds ($\frac{2}{3}$) vote of the membership of the Senate committee.

History. Acts 1977, No. 392, §§ 1, 3; Sess.), No. 31, § 1; 1993, No. 517, § 3; 1983, No. 798, § 1; A.S.A. 1947, §§ 4-2001, No. 627, § 4; 2003, No. 24, § 3; 1013, 4-1015, 4-1017; Acts 1992 (1st Ex. 2003, No. 380, § 2; 2003, No. 1218, § 1.

10-3-902. Duties.

The Joint Performance Review Committee shall have the authority and responsibility to:

(1) Make random and periodic performance review of specific governmental programs and agencies;

(2) Conduct investigations into such specific problem areas of the administration of state government as may be brought to the attention of the Joint Performance Review Committee;

(3) Refer specific problems regarding the operation of state government to appropriate interim committees of the General Assembly for continuing study;

(4) Conduct hearings on citizen complaints and views regarding the operation of state government and serve as a forum for citizens to air their complaints and suggestions regarding the operation of state government;

(5) Review the expenditures of the various agencies, departments, and programs of state government to assure that they are being administered in accordance with legislative intent and are being administered in such manner as to provide the taxpayers with the greatest service at the lowest reasonable cost; and

(6) Make such reports and recommendations to the Governor, the General Assembly, and the Legislative Council as the Joint Performance Review Committee deems necessary or appropriate to promote more effective and efficient operation of state government.

History. Acts 1977, No. 392, § 2; A.S.A. 1947, § 4-1014; Acts 1997, No. 1354, § 21.

10-3-903. Employment of personnel.

The Joint Performance Review Committee is authorized to employ such personnel as necessary to carry out the provisions of this subchapter.

History. Acts 1977, No. 392, § 4; A.S.A. 1947, § 4-1016.

SUBCHAPTER 10 — COMMITTEES ON EDUCATION

SECTION.

10-3-1001. [Repealed.]

10-3-1002. Annual evaluation of vocational-technical courses.

10-3-1003. Routine collaboration with

Department of Education,
Department of Career
Education, and Depart-
ment of Higher Education.

A.C.R.C. Notes. Acts 2007, No. 1600, § 1, provided: "(a) The purpose of this act is to request that the House Interim Committee on Education and the Senate Interim Committee on Education study the requirements for obtaining a four-year degree in education in Arkansas.

"(b) The study shall look at degree programs at institutions of higher education in the state, the courses required for degree completion, the number of hours required for a secondary degree program, and the number of hours that are required to obtain an additional certificate to teach after the person has received his or her original certification."

Preambles. Acts 1997, No. 748, contained a preamble which read: "WHEREAS, the imposition of term limits on members of the General Assembly make it imperative that there occur a routine and continual dialogue between the members of the General Assembly and the executive branch bureaucracy; and

"WHEREAS, the funding and management of our public schools is a complicated and highly costly undertaking which necessitates a continual involvement by members of the General Assembly when not in session; and

"WHEREAS, the best method of keeping the membership of the General Assembly informed as to needs and problems of our public schools is for the House and Senate Interim Committees on Education to routinely and continually engage in a dialogue with the General Education Division of the Department of Education, the Vocational and Technical Education Division of the Department of Education, the Department of Higher Education and other state agencies which the committee deems appropriate.

"Now therefore..."

Acts 2009, No. 964, contained a preamble which read: "WHEREAS, in recent years, due to the rising costs of higher

education, state-supported colleges and universities in Arkansas have increased undergraduate tuition rates and fees by an average that is greater than the rate of inflation; and

"WHEREAS, higher education's growing reliance on funding budgets from tuition is causing an increasingly disproportionate financial burden on students and their families; and

"WHEREAS, a study is needed to identify the factors influencing the affordability of higher education in this state and to seek ways to address the rising cost of tuition, fees, and other student costs,

"Now therefore..."

Effective Dates. Acts 1975 (Extended Sess., 1976), No. 1091, § 3: Jan. 30, 1976. Emergency clause provided: "It is hereby found and determined by the General Assembly that a state plan must be submitted to the United States Commissioner of Education not later than July 1, 1977, to be eligible for cost reimbursement under Section 842 of Pub. L. 93-380; and, that the immediate passage of this act is necessary to allow the Joint Interim Committee on Education as much time as possible to develop said plan and to receive reimbursement for the costs incurred in formulating, improving or implementing a state plan for a state program of financial assistance to local school districts which is designed to achieve equalization of educational opportunity for all children in attendance at the schools of the various school districts and such other purposes as the committee deems desirable. Therefore, an emergency is hereby declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 769, § 21: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-

Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1987, No. 872, § 3: Apr. 13, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1091 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preser-

vation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on education; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effect on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

10-3-1001. [Repealed.]

Publisher's Notes. This section, concerning federal aid for a state equalization plan, was repealed by Acts 2005, No. 2121, § 19. The section was derived from Acts

1975 (Extended Sess., 1976), No. 1091, § 1; A.S.A. 1947, § 4-1001.1; reen. Acts 1987, No. 872, § 1; Acts 1997, No. 112, § 25.

10-3-1002. Annual evaluation of vocational-technical courses.

(a)(1) The Legislative Council, the House Committee on Education, and the Senate Committee on Education annually shall study the courses offered to students participating in and benefiting from the area vocational-technical schools, and such other data as will enable the Legislative Council and the committees to evaluate the cost per student classroom hour for each course or area of instruction.

(2) The studies and evaluation shall be for the purpose of enabling the Legislative Council, the House Committee on Education, and the Senate Committee on Education, the State Board of Education, each school involved, and the General Assembly to periodically review the

courses offered at each school, the relative benefits derived from these courses, and for finding alternative methods of providing these courses more economically, either through area vocational-technical schools, mobile vocational-technical units, area vocational-technical high schools, or the public schools.

(b) Each area vocational-technical school is directed to cooperate with the Legislative Council, the House Committee on Education, and the Senate Committee on Education in furnishing such data and records as may be requested by the Legislative Council, the House Committee on Education, and the Senate Committee on Education reflecting information needed to make the studies and evaluations provided in this section and shall especially include:

- (1) Daily records of attendance of students at each course offered;
- (2) Cost data reflecting the cost per student classroom hour of instruction received per student;
- (3) Follow-up placement data on students who graduate from courses indicating the types of employment of the former students and whether the employments are in a field for which the students received instruction or training. The placement data shall also reflect the city and state of employment;
- (4) Such additional student data and operating cost as may be necessary to enable the Legislative Council, the House Committee on Education, and the Senate Committee on Education to evaluate the courses of instruction offered, the per student cost per classroom hour of instruction, and the relative benefits of the instruction in placing the student in gainful employment upon completion of the course of instruction.

(c) The Legislative Council, the House Committee on Education, and the Senate Committee on Education are authorized to promulgate standard and uniform forms and regulations to be followed by the various area vocational-technical schools in compiling and furnishing information required in this section.

History. Acts 1981, No. 769, § 8; A.S.A. 1947, § 80-1661.

10-3-1003. Routine collaboration with Department of Education, Department of Career Education, and Department of Higher Education.

(a) The House Committee on Education and the Senate Committee on Education between legislative sessions shall continually and routinely:

- (1) Assess the needs and problems of:
 - (A) The public school districts of this state;
 - (B) Technical institutes and vocational-technical schools; and
 - (C) Institutions of higher education; and
- (2) Engage in a constant dialogue with the:
 - (A) Department of Education;

(B) Department of Career Education; and

(C) Department of Higher Education.

(b) In order to assist the General Assembly, the Department of Education, the Department of Career Education, and the Department of Higher Education shall not only respond to the inquiries of the House Committee on Education and the Senate Committee on Education, but shall of their own motion alert the membership of the House Committee on Education and the Senate Committee on Education to problems and needs of, and recommendations concerning, all public education endeavors in Arkansas.

History. Acts 1997, No. 748, § 1; 1999, No. 1323, § 47.

SUBCHAPTER 11 — JOINT INTERIM COMMITTEE ON LEGISLATIVE FACILITIES

SECTION.

- 10-3-1101. Creation — Members — Expenses.
- 10-3-1102. Officers — Meetings.
- 10-3-1103. When committee functions — Administrative responsibilities.
- 10-3-1104. Powers and duties.
- 10-3-1105. Rooms in State Capitol Building assigned for use of General Assembly.

SECTION.

- 10-3-1106. Additional legislative space.
- 10-3-1107. Allocation of space for General Assembly — Furnishings.
- 10-3-1108. Employment of architect.
- 10-3-1109. Contracts.
- 10-3-1110. Disbursing agent.
- 10-3-1111. Disbursing officer.

Effective Dates. Acts 1951, No. 131, § 2; Feb. 23, 1951. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of Arkansas that ample and continuously usable quarters are not available to the General Assembly, its members, agencies and committees, especially during that time that the General Assembly is not in session; that such should be available for such work and duties that might be authorized or carried on by its members, agencies or committees either during the official sessions of the General Assembly or ad interim. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall take effect and be in force from the date of its approval."

Acts 1973, No. 572, § 5; Apr. 2, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that additional space for the com-

mittees of the General Assembly and legislative staff requirements is needed in the State Capitol Building for the efficient operation of the Senate and the House of Representatives of the General Assembly and the respective standing and joint ad interim committees thereof; that it is imperative that said space be provided for the efficient functioning of the joint interim committees of the General Assembly and that the same be available for the operation of the Senate and the House of Representatives upon convening of the next Regular Session of the General Assembly, and that the immediate passage of this act is necessary in order to provide the funds and to establish procedures to make available additional space for the General Assembly in the State Capitol Building, and to provide for the necessary repair, improvement and furnishing thereof. Therefore, an emergency is hereby declared to exist, and this act being necessary for the immediate preserva-

tion of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 273, § 16: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 1987, No. 968, § 4: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Joint Interim Committee on Legislative Facilities is charged with the responsibility of supervising the construction, improvement, and repair of legislative committee rooms and other legislative facilities in the State Capitol Building during the interim between legislative sessions; that Act 572 of 1973 contained provisions for service on said Committee by members of the General Assembly who no longer serve as members of the House or Senate, and that the immediate passage of this Act is necessary in order to revise the membership of the Joint Interim Committee on Legislative Facilities, in order that said members may be appointed and assume their duties immediately upon adjournment of the regular session of the Seventy-Sixth General Assembly. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

Acts 1991, No. 969, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the

method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1991, No. 1240, § 11: Jan. 1, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that recent changes in federal law necessitate an immediate change in the method of reimbursing members of the General Assembly for legislative expenses; this Act grants the authority to the House and Senate to establish expense reimbursement procedures; and this should go into effect immediately in order to allow the House and Senate to comply with federal regulations as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after January 1, 1991."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying out its duties. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 197, § 8: Mar. 27, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that previous General Assemblies have provided appropriations

for the projects provided or enumerated in this act; that certain appropriations will expire before the adjournment of the General Assembly; and that if such appropriations expire, the projects and programs authorized herein will cease thereby depriving the citizens of the State of the benefits to be derived from such projects. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after March 27, 1997.”

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alter-

nate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

10-3-1101. Creation — Members — Expenses.

(a) There is established a joint interim committee of the Senate and House of Representatives to be known as the “Joint Interim Committee on Legislative Facilities”, to consist of fourteen (14) members of the General Assembly as follows:

- (1) The Chair of the House Joint Budget Committee;
- (2) Two (2) members of the House of Representatives selected in accordance with the Rules of the House of Representatives;
- (3) The Chair of the House Management Committee and two (2) additional members of the House Management Committee to be designated by its chair;
- (4) The Speaker of the House of Representatives or his or her designee;
- (5) The President Pro Tempore of the Senate;
- (6) The Chair of the Senate Joint Budget Committee;
- (7) One (1) member of the Senate appointed by the President Pro Tempore of the Senate; and
- (8) Four (4) members of the Senate to be appointed by the Chair of the Senate Efficiency Committee.

(b)(1) The members of the Joint Interim Committee on Legislative Facilities shall receive per diem at the rate provided by law for attendance by members of the General Assembly at meetings of interim committees for each day in attending meetings of the Joint Interim Committee on Legislative Facilities or performing other duties as authorized by the Joint Interim Committee on Legislative Facilities.

(2) In addition thereto, the Joint Interim Committee on Legislative Facilities shall receive mileage for travel from their homes to the State Capitol Building.

History. Acts 1973, No. 572, § 3; 1985, No. 273, § 7; A.S.A. 1947, § 4-141; Acts 1987, No. 968, § 1; 1991, No. 969, § 6; 1991, No. 1240, § 6; 1993, No. 517, § 4; 1993, No. 1272, § 2; 1997, No. 1354, § 22; 2009, No. 84, § 2.

Amendments. The 2009 amendment inserted “or his or her designee” in (a)(4).

10-3-1102. Officers — Meetings.

(a) The Joint Interim Committee on Legislative Facilities shall select from its membership two (2) cochairs, one (1) cochair to be a member of the House of Representatives to be elected by the members of the committee who are members of the House and one (1) cochair to be a Senator to be elected by the members of the Joint Interim Committee on Legislative Facilities who are members of the Senate. The Joint Interim Committee on Legislative Facilities may elect such other officers as it deems necessary for the performance of its duties.

(b) The two (2) cochairs shall preside at each meeting of the Joint Interim Committee on Legislative Facilities or may rotate from meeting to meeting as presiding officers, as they determine. A majority vote of the full membership of the Joint Interim Committee on Legislative Facilities shall be necessary to take final action on any matter. The Joint Interim Committee on Legislative Facilities may establish rules for its procedures and shall meet upon call of the cochairs thereof, upon call by a majority of its members, or at other intervals as may be established in its rules.

(c) The Director of the Bureau of Legislative Research shall serve as secretary to the Joint Interim Committee on Legislative Facilities, without a vote.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141.

10-3-1103. When committee functions — Administrative responsibilities.

(a) The Joint Interim Committee on Legislative Facilities shall function during the interim between regular sessions, fiscal sessions, or special sessions of the General Assembly and may function, if necessary, while the General Assembly is in regular session, fiscal session, special session, or an extension of a regular session, fiscal session, or special session, for the purpose of discharging its duties under this subchapter.

(b) The Joint Interim Committee on Legislative Facilities shall administer all provisions of this subchapter relating to repairs, improvements, and furnishing of committee rooms and legislative facilities in the State Capitol Building, including, if necessary, the payment of rental required for the housing of state agencies moved from the State Capitol Building as a result of any project undertaken by the Joint Interim Committee on Legislative Facilities pursuant to the provisions of this subchapter until space for the agencies may be provided in other public facilities.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 2009, No. 962, § 22.

Amendments. The 2009 amendment added the subsection designations; and in (a), inserted “sessions, fiscal sessions” fol-

lowing the first occurrence of “regular,” “session, fiscal” following the second occurrence of “regular,” and “fiscal” following the third occurrence of “regular.”

10-3-1104. Powers and duties.

(a) The Joint Interim Committee on Legislative Facilities shall review the existing usage of the space presently used by the General Assembly in the State Capitol Building and shall make such reallocations thereof or improvements thereto as in the judgment of the Joint Interim Committee on Legislative Facilities are necessary to serve the needs of the Senate and the House of Representatives, their respective standing committees, and the several interim committees of the General Assembly and legislative staff services.

(b) The Joint Interim Committee on Legislative Facilities may undertake any or all of the improvements contemplated in this subchapter after conferring with the Legislative Council, the agencies affected, and the Governor, giving due consideration to the needs and convenience of the several state agencies presently housed in the State Capitol Building in space to be converted to legislative use, and especially after considering the plans for providing space for the agencies in a state office building, and may undertake improvements as a single project or in a series of projects as the Joint Interim Committee on Legislative Facilities may determine to be in the best interest of the General Assembly.

(c) If, after proper investigation and the exhausting of all other reasonable alternatives, the Joint Interim Committee on Legislative Facilities deems it necessary to require any of the state agencies currently housed in space which under the provisions of this subchapter is made available for legislative use to vacate the space, the Joint Interim Committee on Legislative Facilities may use funds appropriated in Acts 1973, No. 572, § 1, to provide rented quarters to house any such agency until space for the agency becomes available in a state-owned facility.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1997, No. 1354, § 23.

Publisher's Notes. Acts 1973, No. 572,

§ 1, referred to in this section was an appropriations provision.

10-3-1105. Rooms in State Capitol Building assigned for use of General Assembly.

There is assigned in the State Capitol Building for the exclusive and continual use of the General Assembly, its members, its agencies, and its committees the three (3) rooms on the west wing of the third floor, these being rooms heretofore occupied by the Arkansas State History Museum.

History. Acts 1951, No. 131, § 1; A.S.A. 1947, § 4-117.

Cross References. Official meeting place, § 10-3-405.

10-3-1106. Additional legislative space.

In addition to the space now provided in the State Capitol Building for the General Assembly and its committees, the following additional space in the State Capitol Building is designated as legislative space if the Joint Interim Committee on Legislative Facilities determines that it is needed for legislative committee space or for other legislative facilities:

(1) The office space on the north wing of the first floor of the State Capitol Building currently used by the Division of Purchasing, the Department of Correction, the Department of Parks and Tourism, and the Department of Commerce;

(2) The office space on the west side of the first floor of the State Capitol Building presently used by the Public Employees' Retirement System, which shall be made available to the Division of Legislative Audit, or such other legislative uses as may be determined by the Joint Interim Committee on Legislative Facilities;

(3) The office space on the southeast wing of the first floor of the State Capitol Building presently assigned to the Accounting Division of the Department of Finance and Administration, and any other portion of the space assigned to the Department of Finance and Administration the Joint Interim Committee on Legislative Facilities determines is needed for legislative use;

(4) The office space on the southeast wing of the second floor of the State Capitol Building currently assigned for use by the Budget Division of the Department of Finance and Administration. The space now provided for the Arkansas Economic Development Commission on the southwest wing of the second floor of the State Capitol Building shall be made available for the Budget Division of the Department of Finance and Administration unless the director determines that the location of the Budget Division in some other facilities would be more advantageous to the agency;

(5) The former Supreme Court Chamber on the south end of the second floor of the State Capitol Building, to be air conditioned and serve as a large Senate committee room, but preserving the present decor of the chamber, i.e., changes contemplated involve only such things as air conditioning, carpeting, repainting, improved lighting, and installation of sound and recording equipment, and necessary committee tables and chairs, and other minor changes, essentially preserving the room in its present state; and

(6) The space presently assigned the Division of Legislative Audit on the west portion of the fourth floor of the State Capitol Building shall be available for the Bureau of Legislative Research of the Legislative Council, Budget and Fiscal Review Section, or such other uses as determined by the Joint Interim Committee on Legislative Facilities.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1997, No. 540, § 13.

Publisher's Notes. This section refers to the allocation of space to various governmental entities as they existed at the time of its enactment.

The Division of Purchasing probably refers to the Purchasing Division of the State Administration Department. Acts 1971, No. 38, § 5, in part, transferred the State Administration Department to the Department of Finance and Administration. Acts 1979, No. 482, § 13, created the Office of State Purchasing within the Department of Finance and Administration.

The Department of Commerce was abolished by Acts 1983, No. 691, § 1. That section further provided that the various departments, agencies, boards, commissions, programs, and services transferred to the Department of Commerce as enumerated in the act would be detached from the department and restored, as of July 1, 1983, to the status in which each such department, agency, etc., existed prior to the passage of Acts 1971, No. 38, or prior to its transfer to the Department of Commerce by acts subsequent to Acts 1971, No. 38. Acts 1983, No. 691, § 17,

provided, in part, that any program, function, or duty then being performed by or within the Department of Commerce which was not specifically detached therefrom under the provisions of the act would be performed by the detached agency, department, board, or commission to which it was assigned within the Department of Commerce; if the program, function, or duty was not specifically assigned to an agency, department, board, or commission which was detached under the provisions of the act the Governor could, by proclamation, transfer and allocate the program, function, or duty to the appropriate state agency, as determined by the Governor, for its administration.

The Accounting Division of the Department of Finance and Administration referred to in subdivision (3) of this section, and the Budget Division of the Department of Finance and Administration referred to in subdivision (4) of this section, probably refer to the Budget and Accounting Division of the Department of Finance and Administration.

The director referred to in subdivision (4) is an apparent reference to the Director of the Department of Finance and Administration.

10-3-1107. Allocation of space for General Assembly — Furnishings.

(a) The Joint Interim Committee on Legislative Facilities shall determine the best and most efficient means of allocating the additional space in the State Capitol Building, as provided by this subchapter, to be used by the Senate and the House of Representatives and for providing space for staff for the General Assembly, for either house of the General Assembly, and interim committees thereof.

(b) The Joint Interim Committee on Legislative Facilities shall provide for supplying the furnishings for any additional space for use by the Senate and the House of Representatives pursuant to the provisions of this subchapter, provided that all furnishings shall be purchased in accordance with competitive bids awarded to the lowest responsible bidder, as required by the purchasing laws of this state.

History. Acts 1973, No. 572, § 4; A.S.A. 1947, § 4-142.

10-3-1108. Employment of architect.

The Joint Interim Committee on Legislative Facilities shall have the authority to employ an architect to prepare plans and specifications for the work to be done, to supervise the construction, and to furnish other

architectural services which the Joint Interim Committee on Legislative Facilities may require in the performance of its duties, and for that purpose the Joint Interim Committee on Legislative Facilities may enter into contracts with the architect. The fee which may be paid the architect shall not exceed nine percent (9%) of the cost of the project. Any contract shall provide that the architect shall furnish without additional cost to the state such services as may be required in the performance of the work.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141.

10-3-1109. Contracts.

(a)(1) Construction work to be performed shall be under contract, to be awarded by the Joint Interim Committee on Legislative Facilities to the lowest responsible bidder, but the total cost of the project, including cost of publishing legal notices, payment of architect fees, payments to contractors, and all other expenses of whatever nature incident to and reasonably necessary in connection with the project shall not exceed the appropriation provided for it.

(2) All expenditures of funds shall be in strict compliance with the applicable provisions of the fiscal laws of this state pertaining to the expenditure of public funds and the state purchasing laws of this state.

(3) All contracts let under the provisions of this subchapter shall be subject to the approval of the Governor, the Auditor of State, and the Treasurer of State, as provided in Arkansas Constitution, Article 19, Section 15 [repealed].

(b) All actions by the Joint Interim Committee on Legislative Facilities in relation to the work to be performed under contracts shall be in strict compliance with the applicable provisions of §§ 22-9-202 — 22-9-204.

(c) All payments to contractors under contracts let under the provisions of this subchapter shall be made only after the approval of the amounts thereof by the architect.

(d) All contracts which the Joint Interim Committee on Legislative Facilities proposes to enter into shall be subject to the approval as to form only by the Attorney General.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141; Acts 1987, No. 968, § 2.

19, § 15, referred to in (a)(3), was repealed by Ark. Const. Amend. 54, § 2.

Publisher's Notes. Ark. Const., Art.

10-3-1110. Disbursing agent.

The Director of the Bureau of Legislative Research shall be, ex officio, the disbursing agent of the appropriation made in Acts 1973, No. 572, § 1, and all disbursements shall be upon the direction or authorization of the Joint Interim Committee on Legislative Facilities. Any additional bond required of the director as disbursing agent of the funds appro-

priated in Acts 1973, No. 572, § 1, shall be paid from the funds appropriated therein.

History. Acts 1973, No. 572, § 3; A.S.A. 1947, § 4-141. § 1, referred to in this section, was an appropriations provision.

Publisher's Notes. Acts 1973, No. 572,

10-3-1111. Disbursing officer.

The Director of the Bureau of Legislative Research shall be the disbursing officer for the funds appropriated to the Joint Interim Committee on Legislative Facilities, and all disbursements shall be upon the direction or authorization of the Joint Interim Committee on Legislative Facilities.

History. Acts 1997, No. 197, § 2.

SUBCHAPTER 12 — ARKANSAS COMMUNICATIONS STUDY COMMITTEE

SECTION.

10-3-1201 — 10-3-1205. [Repealed.]

10-3-1201 — 10-3-1205. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas Communications Study Committee, was repealed by Acts 1997, No. 914, § 26. The subchapter was derived from the following sources:

10-3-1201. Acts 1975, No. 326, § 1; 1977, No. 884, § 19; A.S.A. 1947, § 5-1418.

10-3-1202. Acts 1975, No. 326, § 3; 1975 (Extended Sess., 1976), No. 1059, § 1; 1977, No. 884, § 21; A.S.A. 1947, § 5-1420.

10-3-1203. Acts 1975, No. 326, §§ 2, 3; 1975 (Extended Sess., 1976), No. 1059, § 1; 1977, No. 884, §§ 20, 21; A.S.A. 1947, §§ 5-1419, 5-1420.

10-3-1204. Acts 1975, No. 326, § 3; 1975 (Extended Sess., 1976), No. 1059, § 1; 1977, No. 884, § 21; A.S.A. 1947, § 5-1420.

10-3-1205. Acts 1975, No. 326, § 3; 1975 (Extended Sess., 1976), No. 1059, § 1; 1977, No. 884, § 21; A.S.A. 1947, § 5-1420.

SUBCHAPTER 13 — SENATE INTERIM COMMITTEE ON CHILDREN AND YOUTH

SECTION.

10-3-1301. Construction.

10-3-1302. [Repealed.]

10-3-1303. Duties.

10-3-1304 — 10-3-1319. [Reserved.]

10-3-1320. Interim operation — Vacancies.

SECTION.

10-3-1321. Meetings — Intergovernmental cooperation.

10-3-1322. Reimbursement of expenses — Staff assistance.

10-3-1323. Compliance with child welfare reform.

A.C.R.C. Notes. References to "this subchapter" in §§ 10-3-1301 — 10-3-1303 and 10-3-1320 — 10-3-1322 may not apply to § 10-3-1323 which was enacted subsequently.

Preambles. Acts 1987, No. 517 con-

tained a preamble which read: "Whereas, the children of this Nation face a myriad of problems; and

"Whereas, legislative matters affecting children are assigned to many different standing committees which results in lack

of comprehensive planning for children's needs and services and too often children fall through the cracks;

"Whereas, recent federal legislation has been introduced which would encourage state planning to develop a unified policy for all children; and

"Whereas, the consolidation of children's issues for review by a single legislative committee would insure that complex, interdisciplinary problems affecting children and funding needed for delivery of services to children would receive a more thorough consideration of the General Assembly; and

"Whereas, it is in the public interest that the General Assembly cooperate with the Governor, the various federal and state agencies and the Congress in making continual review of the problems and needs of children, and to explore means by which this State can address and resolve those problems in a comprehensive manner;

"Now, therefore...."

Effective Dates. Acts 1987, No. 517, § 7: Apr. 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that the future well being of the State of Arkansas lies in a good beginning for each child; that the problems facing the children of our society pose an immediate and future peril to the health, safety and welfare of the people of this State and immediate steps are necessary to coordinate planning and development of comprehensive legislation to meet the needs of children and youth, and that the immediate passage of this Act is necessary to enable the Seventy-Sixth General Assembly to establish a standing committee which will make studies, not only during regular session of the General Assembly, but in the interim period between legislative sessions designed to keep the General Assembly of this State fully in contact with the development of meaningful solutions to the problems facing children and youth, and in the development of legislation to carry out such solutions. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 517, § 10: Mar. 16, 1993. Emergency clause provided: "It is hereby

found and determined by the General Assembly of the State of Arkansas that the laws concerning certain committees of the House of Representatives and the General Assembly are in need of clarification and revision for the efficient operation of the General Assembly and that this act is immediately necessary to assist the Seventy-Ninth General Assembly in carrying out its duties. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1033, § 6: Apr. 12, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly of the State of Arkansas that it is necessary for the Joint Committee on Children and Youth to have ample time to prepare for taking over the duties relating to oversight of the Arkansas Child Welfare Reform Document and the Angela R., et al. v. Bill Clinton, et al. consent decree. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 312, § 24: Feb. 28, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the duties of the Joint Interim Committee on Children and Youth shall be transferred to the Senate Interim Committee on Children and Youth; that such transfer should begin upon the adjournment of this Regular Session; and that unless this emergency clause is adopted the transfer will not occur until ninety days past the Regular Session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is

found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and

safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

10-3-1301. Construction.

The provisions of this subchapter shall be in addition and supplemental to the laws of this state and the Rules of the House of Representatives and the Rules of the Senate pertaining to the standing and interim committees of the General Assembly and of the House of Representatives and Senate and shall repeal only such laws or parts of laws as may be specifically in conflict with this subchapter.

History. Acts 1987, No. 517, § 6.

10-3-1302. [Repealed.]

Publisher's Notes. This section, concerning the creation, membership, and cochairmen of the Senate Interim Committee on Children and Youth, was re-

pealed by Acts 1997, No. 312, § 9. The section was derived from Acts 1987, No. 517, §§ 1, 2; 1992 (1st Ex. Sess.), No. 29, § 1; 1993, No. 517, § 5.

10-3-1303. Duties.

The Senate Interim Committee on Children and Youth shall make continuing studies and shall cooperate with the appropriate agencies of this state, agencies of the United States Government, and the Congress of the United States in the exchange and dissemination of information and in the development of legislation designed to coordinate planning and to try new ways to prevent young people from falling through the cracks.

History. Acts 1987, No. 517, § 2; 1991, No. 555, § 1; 1997, No. 312, § 10.

10-3-1304 — 10-3-1319. [Reserved.]

10-3-1320. Interim operation — Vacancies.

(a) The Senate Interim Committee on Children and Youth shall be composed of ten (10) members appointed pursuant to the Rules of the Senate and shall function in the interim between the sine die adjournment or extended recess of the regular session or fiscal session of each

General Assembly until the convening of the next regular session or fiscal session of the General Assembly or the convening of the current General Assembly during an extended recess.

(b) The Senate Interim Committee on Children and Youth shall make continuing studies pertaining to the safety, health, development, and problems of children. The studies may either be initiated by the Senate Interim Committee on Children and Youth or referred to it by either house of the General Assembly for study in the interim between sessions of the General Assembly. Interim study proposals and resolutions relating to children, which are filed with the Legislative Council under the provisions of § 10-3-214 for review and referral to the appropriate germane joint interim committee of the General Assembly, shall be referred to the Senate Interim Committee on Children and Youth. The Senate Interim Committee on Children and Youth shall undertake each study referred to it by members of the General Assembly or by the Legislative Council and shall submit a report of its findings and recommendations in regard to each study request prior to the convening of the next session of the General Assembly.

(c) In addition, the Senate Interim Committee on Children and Youth shall exercise leadership in the interim between legislative sessions and shall attempt to coordinate for the various committees of the General Assembly the various activities, studies, and planning activities of the General Assembly which relate to children and youth, delivery of services to children, and use of funding resources for programs and services.

(d) The Senate Interim Committee on Children and Youth shall cooperate with the Governor, the appropriate administrative agencies of this state, legislative and administrative agencies of other states, and the federal government, including participation in regional and national meetings and seminars of state and federal officials in the exchange of information and data on children and youth problems and resolution of those problems.

History. Acts 1987, No. 517, § 3; 1997, No. 312, § 11; 2009, No. 962, § 23.

Amendments. The 2009 amendment inserted “session or fiscal” following “regu-

lar” twice in (a); and deleted “regular” following “convening of the next” near the end of the last sentence of (b).

10-3-1321. Meetings — Intergovernmental cooperation.

(a) The Senate Interim Committee on Children and Youth shall meet upon call by the Chair of the Senate Interim Committee on Children and Youth, or at such other times as may be provided in the rules of the Senate Interim Committee on Children and Youth, or upon written call by any five (5) of its members.

(b) The Senate Interim Committee on Children and Youth shall cooperate with the Council of State Governments, the Southern Legislative Conference, the National Conference of State Legislatures and its committees, and other appropriate conferences or associations of public

officials concerned with the problems of children and youth for the purpose of coordinating the activities and resources of the legislative departments of the sister states to assist the Congress of the United States and the federal government in coordinating state and regional programs for the safety, health, development, and problems of children and youth.

History. Acts 1987, No. 517, § 5; 1997, No. 312, § 12.

10-3-1322. Reimbursement of expenses — Staff assistance.

(a)(1) Members of the Senate Interim Committee on Children and Youth shall be entitled to per diem and mileage for attending each meeting of the Senate Interim Committee on Children and Youth or in attending to authorized business of the Senate Interim Committee on Children and Youth business at the same rate as provided by law for members of the General Assembly for attending meetings of the interim committees of the General Assembly.

(2) The per diem and mileage, including reimbursement for expenses for attending out-of-state meetings as provided by law, shall be paid from funds appropriated for per diem, mileage, and expenses for members of the General Assembly for attending interim committee meetings or from other funds provided by law for that purpose.

(b) The Bureau of Legislative Research of the Legislative Council shall furnish staff assistance as may be requested by the Senate Interim Committee on Children and Youth.

History. Acts 1987, No. 517, § 4; 1997, No. 312, § 13; 1997, No. 1354, § 24.

10-3-1323. Compliance with child welfare reform.

(a) The General Assembly finds that the requirements with which the state must comply pursuant to the consent decree from *Angela R., et al. v. Bill Clinton, et al.* and the Arkansas Child Welfare Reform Document demand close observation and study; that the future of the state's children and youth relies heavily on compliance with the decree; that the financial security of the state is in jeopardy if the state has difficulty or is unable to comply with the consent decree because of the voluminous number of lawsuits that could ensue; that the state has a responsibility to protect children and youth from harm and ensure their healthy development; that the Child Welfare Compliance and Oversight Committee will cease to exist on December 31, 1994; that in order to protect the interests of the state, it is crucial that oversight of child welfare issues continue; that oversight by a committee that focuses specifically on problems relating to children and youth would be the most advantageous manner of monitoring compliance with the consent decree and related problems. Therefore, it is declared to be the intent of the General Assembly to require the Senate Interim Committee on

Children and Youth to monitor compliance with the consent decree, to report annually regarding compliance, and to review all bills pertaining to the safety, health, mental health, development, and problems of children and youth.

(b) The Senate Interim Committee on Children and Youth shall make a report at least annually regarding the state's compliance with the Arkansas Child Welfare Reform Document and review all bills pertaining to the safety, health, mental health, development, and problems of children and youth. The report shall be made available to all members of the General Assembly.

History. Acts 1993, No. 1033, §§ 1, 2; 1997, No. 312, § 13.

A.C.R.C. Notes. References to "this subchapter" in §§ 10-3-1301 — 10-3-1303

and 10-3-1320 — 10-3-1322 may not apply to this section which was enacted subsequently.

SUBCHAPTER 14 — OFFICE OF ECONOMIC AND TAX POLICY

SECTION.

10-3-1401. Joint Committee on Economic and Tax Policy — Creation.

10-3-1402. Office of Economic and Tax Policy — Creation.

10-3-1403. Office of Economic and Tax

SECTION.

Policy — Powers and duties.

10-3-1404. Forecast of general revenues.

10-3-1405. Interdepartmental cooperation and assistance.

Effective Dates. Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 160, § 2: Feb. 8, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that this act modifies

the composition of the Joint Committee on Economic and Tax Policy; that unless this emergency clause is adopted, this act will not become effective until ninety days after the adjournment of this regular session; that the committee will likely have business to conduct prior to the expiration of that ninety-day period; and that there is a necessity for continuity of committee membership during the interim between sessions. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2005, No. 1981, § 4: Apr. 11, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the State of

Arkansas has been disadvantaged in its ability to effectively compete for large economic development projects due to its inability to quickly raise revenues through the issuance of general obligation bonds; that attracting a project would significantly benefit the economic development of the state by providing increased payrolls, job opportunities, and tax income; that the citizens of the State of Arkansas recognized the missed opportunities caused by this competitive disadvantage through their overwhelming approval of Amendment 82; and that this act is immediately necessary in order to effectuate

the will of the people and position the State of Arkansas to act expeditiously in securing a project in the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-3-1401. Joint Committee on Economic and Tax Policy — Creation.

(a)(1) There is hereby created the "Joint Committee on Economic and Tax Policy" which shall be composed of:

- (A) The cochaIRS of the Legislative Council;
- (B) The cochaIRS of the Joint Budget Committee;
- (C) The Chair of the Senate Committee on Revenue and Taxation;
- (D) The Chair of the House Committee on Revenue and Taxation;
- (E) Three (3) members of the Senate appointed by the President Pro Tempore of the Senate, one (1) of whom shall be appointed Cochair of the Joint Committee on Economic and Tax Policy; and
- (F) Three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives, one (1) of whom shall be appointed Cochair of the Joint Committee on Economic and Tax Policy.

(2) The members shall be entitled to per diem and mileage, at the rates prescribed by law for members of interim committees of the General Assembly, to be paid from funds appropriated for paying per diem and mileage of interim committees.

(b) The Joint Committee on Economic and Tax Policy shall hear matters relating to the economic and revenue outlook of the state and information relating to the economic and fiscal impact of public policy measures, including the revenue forecasts as submitted by the Governor, and make such recommendations as it deems necessary.

History. Acts 1993, No. 1274, § 2; 1997, No. 1354, § 25; 2001, No. 160, § 1.

10-3-1402. Office of Economic and Tax Policy — Creation.

(a) There is hereby created within the Bureau of Legislative Research the "Office of Economic and Tax Policy".

(b) The office shall be staffed by such personnel as may be authorized by biennial appropriations of the General Assembly.

History. Acts 1993, No. 1274, § 1.

10-3-1403. Office of Economic and Tax Policy — Powers and duties.

(a) The Office of Economic and Tax Policy shall work under the standards and guidelines of the Joint Committee on Economic and Tax Policy and shall:

(1) Review the biennial and annual revenue forecast submitted by the executive branch;

(2) Provide legislators with such information as may be requested regarding the data and assumptions supporting the forecast;

(3) At the request of the Joint Committee on Economic and Tax Policy, provide alternative forecasts based on different assumptions regarding economic performance;

(4) Make periodic reviews of the official revenue forecast performance;

(5) Provide members with analyses of policy proposals which might affect the economy or fiscal outlook of the State of Arkansas;

(6) Biennially prepare and make available to the members of the General Assembly a comprehensive compilation of taxes levied by the State of Arkansas;

(7) Provide members of the Joint Committee on Economic and Tax Policy or other members of the General Assembly with such data, information, or policy studies as may be requested, subject to time and resource constraints;

(8) Review any changes made in the distribution of funds for public education; and

(9) Perform or arrange for the performance of audits of the economic impact and cost-benefit with regard to any economic development project for which the sponsor receives the benefit of Amendment 82 bond financing.

(b) The office shall prepare fiscal impact analyses of proposed legislation on request of:

(1) Any member of the General Assembly; or

(2) A legislative committee.

History. Acts 1993, No. 1274, § 4; 2003 (2nd Ex. Sess.), No. 17, § 1; 2005, No. 1981, § 2.

10-3-1404. Forecast of general revenues.

(a)(1) The Chief Fiscal Officer of the State shall on or before the first Wednesday in May prior to the beginning of each fiscal year submit to the Joint Committee on Economic and Tax Policy the official forecast of

general revenues to be available for distribution under the provisions of the Revenue Stabilization Law, § 19-5-101 et seq., for the fiscal year.

(2)(A) The Joint Committee on Economic and Tax Policy may hold meetings and hearings and request such information, data, or studies as it deems necessary.

(B) Upon hearing evidence and information regarding the outlook for state revenues, the members of the Joint Committee on Economic and Tax Policy shall make its findings on the forecast of general revenues available for distribution.

(3) A report of the Joint Committee on Economic and Tax Policy's findings shall be sent to the Chief Fiscal Officer of the State.

(b) In the event the Chief Fiscal Officer of the State determines it has become necessary to change the forecast of general revenues available for distribution, the Chief Fiscal Officer of the State shall report the expected change in forecast to the Office of Economic and Tax Policy and the Joint Committee on Economic and Tax Policy with an explanation of the need for the change.

History. Acts 1993, No. 1274, § 3.

10-3-1405. Interdepartmental cooperation and assistance.

(a) The Department of Finance and Administration shall cooperate with and assist the Office of Economic and Tax Policy in carrying out its responsibilities by providing:

(1) The office with such nonconfidential tax information as may be requested by the office; and

(2) Such other assistance to the office as may be requested.

(b)(1) Other state agencies shall cooperate with and assist the office in carrying out its duties, including, without limitation:

(A) Review and analysis of cost-benefit studies;

(B) Fiscal impact statements; and

(C) Other fiscal analyses as requested by the office.

(2) State agencies shall provide assistance to the office as requested.

(c) The state-supported institutions of higher education shall:

(1) Cooperate with and assist the office in carrying out its duties; and

(2) Provide support and advice to the Joint Committee on Economic and Tax Policy in determining the economic policy and revenue forecast of the State of Arkansas.

(d)(1) The Department of Education shall cooperate with and assist the office in carrying out its responsibilities by providing:

(A) The office with information requested by the office; and

(B) Assistance to the office as requested.

(2) The Department of Education shall provide the office with any information regarding changes in the calculation of state aid to public school districts within seven (7) working days of a change.

(e) The Arkansas Economic Development Commission and the Arkansas Development Finance Authority shall cooperate with and assist the office in carrying out its responsibilities by providing:

- (1) The office with information requested by the office; and
- (2) Assistance to the office as requested.

History. Acts 1993, No. 1274, § 5; 2003 (2nd Ex. Sess.), No. 17, § 2; 2005, No. 1981, § 3.

SUBCHAPTER 15 — DESEGREGATION LITIGATION — LEGISLATIVE OVERSIGHT

SECTION.

- 10-3-1501. Established — Powers and duties.
- 10-3-1502. Members — Compensation.
- 10-3-1503. Reduction of future litigation liability.
- 10-3-1504. Reports — Settlements.

SECTION.

- 10-3-1505. Comprehensive study.
- 10-3-1506. Arkansas Public School Desegregation Lawsuit Resolution Task Force — Establishment — Members — Duties.

Effective Dates. Acts 1989 (3rd Ex. Sess.), No. 71, § 7: Nov. 16, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the State of Arkansas has recently expended huge amounts of state revenues for costs involved in desegregation litigation; that it is in the best interests of all taxpayers of this state that an oversight subcommittee representative of the interests of the state be established to advise the Governor and the General Assembly in settlements of litigation involving desegregation and to develop positive means to avoid future litigation in the area; that the establishment of this subcommittee through legislation is necessitated by a recent opinion issued by the Attorney General. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 112, § 40: Feb. 7, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 10 of the First Extraordinary Session of 1995 abolished the Joint Interim Committee on Education and in its place established the House Interim Committee and Senate Interim Committee on Education; that various sections of the Arkansas Code refer to the Joint Interim Committee on Education and should be corrected to refer to the House and Senate Interim Committees on edu-

cation; that this act so provides; and that this act should go into effect immediately in order to make the laws compatible as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effect on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the

period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1508, § 19: Apr. 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that this act makes various technical corrections in the Arkansas Code; that this act further clarifies the law to provide that the Arkansas Code Revision Commission may correct errors resulting from enactments of prior sessions; and that this act should go into effect immediately in order to be applicable during the codification process of the enactments of this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden it shall become effective on the date the last house overrides the veto."

10-3-1501. Established — Powers and duties.

There is hereby established the "Desegregation Litigation Oversight Subcommittee" of the General Assembly which shall have the authority and duty to monitor the implementation of the Pulaski County School Desegregation Case Settlement Agreement and to monitor the state's participation in any future desegregation case in which the Department of Education or the State Board of Education is a defendant, or both.

History. Acts 1989 (3rd Ex. Sess.), No. 71, § 1.

A.C.R.C. Notes. In November, 1982, the Little Rock School District filed suit against the Pulaski County Special School District, the North Little Rock School District, the State of Arkansas, and the State Board of Education alleging actions by officials resulting in the segregation of schools in the Little Rock district. Little Rock School District v. Pulaski County School District No. 1, et. al., Docket No.

LR-C-82-866. In December, 1989, the United States District Court for the Eastern District of Arkansas, Henry Woods, J., rejected the settlement plan submitted (726 F. Supp. 1544 (E.D. Ark. 1989)). The court of appeals reversed, holding the settlement plan should have been approved (921 F.2d 1371 (8th Cir. 1990)). On remand (769 F. Supp. 1483 (E.D. Ark. 1991)) the agreement was again rejected and the appeal therefrom vacated (949 F.2d 253 (8th Cir. Ark. 1991)).

10-3-1502. Members — Compensation.

(a) The Desegregation Litigation Oversight Subcommittee shall consist of four (4) members from the Senate appointed by the President Pro Tempore of the Senate, four (4) members of the House of Representatives appointed by the Speaker of the House of Representatives, and three (3) persons appointed by the Governor.

(b)(1) The members appointed by the Governor shall be representative of the educational community in Arkansas.

(2) At least one (1) member from the Senate and at least one (1) member from the House of Representatives shall be a lawyer.

(3) At least one (1) member of the subcommittee shall be a woman and at least one (1) additional member shall be black.

(c) All per diem and mileage for legislative members shall be paid from the interim committee funds for the House Committee on Education and the Senate Committee on Education. Nonlegislative members shall be paid from funds available through the Department of Education at the same rate as legislative members.

History. Acts 1989, (3rd Ex. Sess.), No. 250, § 56; 1997, No. 1354, § 26; 1999, No. 71, § 2; 1997, No. 112, § 26; 1997, No. 1508, § 7.

10-3-1503. Reduction of future litigation liability.

The Desegregation Litigation Oversight Subcommittee shall examine possible methods to reduce the potential for the state's being liable in future desegregation litigation and make recommendations for legislation to the Governor and to the General Assembly.

History. Acts 1989 (3rd Ex. Sess.), No. 71, § 4.

10-3-1504. Reports — Settlements.

(a) The Department of Education and the Attorney General shall report regularly to the Desegregation Litigation Oversight Subcommittee on implementation of the Pulaski County School Desegregation Case Settlement Agreement and on any future desegregation litigation involving the State of Arkansas.

(b) Neither the department nor the Attorney General shall enter into a final settlement of any future desegregation litigation without seeking the advice of the Desegregation Litigation Oversight Subcommittee.

(c) The department will provide reports to the House Committee on Education and the Senate Committee on Education regarding the implementation of the Pulaski County School Desegregation Case Settlement Agreement on a quarterly basis and at such other times as may be necessary to keep the House Committee on Education and the Senate Committee on Education fully advised on these matters.

History. Acts 1989 (3rd Ex. Sess.), No. 71, § 3; 1997, No. 112, § 27.

10-3-1505. Comprehensive study.

(a)(1) The Desegregation Litigation Oversight Subcommittee may conduct a comprehensive feasibility study to facilitate a final resolution of the various desegregation cases in the state to which the State of Arkansas or its officers are a party.

(2) The study shall address matters as determined by the Desegregation Litigation Oversight Subcommittee.

(b)(1) The Desegregation Litigation Oversight Subcommittee may commission the assistance of experts or other unbiased sources to assist the Desegregation Litigation Oversight Subcommittee in the completion of a comprehensive feasibility study to facilitate a final resolution.

(2) The costs of the study may be paid from funds appropriated to the Bureau of Legislative Research for the purpose of conducting studies or other sources.

(c) A report of the study shall be presented to the House Committee on Education and the Senate Committee on Education on or before December 1, 2006.

History. Acts 2005, No. 1940, § 1.

10-3-1506. Arkansas Public School Desegregation Lawsuit Resolution Task Force — Establishment — Members — Duties.

(a) There is established a legislative task force to be known as the “Arkansas Public School Desegregation Lawsuit Resolution Task Force” to serve with the members of the Desegregation Litigation Oversight Subcommittee.

(b) The task force shall consist of the members of the Desegregation Litigation Oversight Subcommittee and ten (10) members as follows:

(1) Five (5) members appointed by the President Pro Tempore of the Senate:

(A) One (1) member of the Senate from each of the four (4) congressional districts in the state; and

(B) One (1) member of the Senate who is a member of a minority political party; and

(2) Five (5) members appointed by the Speaker of the House of Representatives as follows:

(A) One (1) member of the House of Representatives from each of the four (4) congressional districts in the state; and

(B) One (1) member of the House who is a member of a minority political party.

(c) The task force shall:

(1) Study methods of bringing a final resolution to desegregation litigation and related matters involving the state;

(2) Hire and direct experts as may be necessary to facilitate a final resolution of desegregation litigation and related matters involving the state; and

(3) Make recommendations to the General Assembly regarding the resolution of desegregation litigation and related matters involving the state.

(d)(1) The Department of Education, the Attorney General, and school districts shall provide the task force with assistance or information as requested by the task force.

(2) The Bureau of Legislative Research shall provide staff to the task force.

(e)(1) The task force may contract with individuals or entities to conduct the study of the task force.

(2) The expenses of the task force shall be paid by the Bureau of Legislative Research from the appropriation for interim task force study expenses or other available funds.

History. Acts 2005, No. 2286, § 1.

SUBCHAPTER 16 — JOINT INTERIM OVERSIGHT COMMITTEE ON EDUCATION REFORM

SECTION.

10-3-1601. Creation — Members.

10-3-1602. Duties.

Effective Dates. Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

10-3-1601. Creation — Members.

(a) To assist the General Assembly, there is established the "Joint Interim Oversight Committee on Education Reform" to be composed of the following members:

(1) Seven (7) members of the Senate to be appointed by the Chair of the Senate Committee on Education, in consultation with the President Pro Tempore of the Senate; and

(2) Seven (7) members of the House of Representatives to be appointed by the Chair of the House Committee on Education, in consultation with the Speaker of the House of Representatives.

(b) In making their appointments, the Chair of the Senate Committee on Education and the Chair of the House Committee on Education shall seek to ensure that members who are knowledgeable about all types of educational issues and who represent all geographic regions of the state shall serve on the Joint Interim Oversight Committee on Education Reform.

(c) The Joint Interim Oversight Committee on Education Reform shall be assisted by staff provided by the Bureau of Legislative Research.

(d) Members of the Joint Interim Oversight Committee on Education Reform shall be entitled to receive per diem and expenses for their attendance at committee meetings at the same rate as members of the General Assembly receive for attendance at meetings of interim committees.

(e) The members appointed to the Joint Interim Oversight Committee on Education Reform shall select a Senate cochair and a House cochair, each of whom shall serve for a two-year term during the interim.

History. Acts 1991, No. 978, § 1; 1993, No. 1272, § 1; 1997, No. 1354, § 27; 1999, No. 1163, § 1.

10-3-1602. Duties.

The duties of the Joint Interim Oversight Committee on Education Reform shall include, but are not limited to, the following:

(1) Reviewing policy issues regarding the creation and implementation of acceptability systems for the state system of education, including the review of any regulatory changes proposed by the appropriate agencies of the executive branch or any boards or commissions prior to their implementation;

(2) Reviewing policy issues affecting educational reform on or before November 15 of the year preceding a regular session and making recommendations concerning any necessary legislative changes proposed by school districts, cooperatives, institutions of higher education, the Department of Education, the State Board of Education, the Department of Career Education, the State Board of Career Education, the Department of Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions;

(3) Providing recommendations regarding use of state and federal funds;

(4) Reviewing and assuring coordination between the school districts, cooperatives, institutions of higher education, the Department of Education, the State Board of Education, the Department of Career Education, the State Board of Career Education, the Department of Higher Education, the Arkansas Higher Education Coordinating Board, the Governor's office, and private institutions; and

(5) Evaluating innovative education projects and promoting the adoption of successful projects.

History. Acts 1991, No. 978, § 2; 1999, No. 1163, § 2; 2009, No. 962, § 24.

Amendments. The 2009 amendment

substituted “regular session” for “regularly scheduled legislative session” in (2).

SUBCHAPTER 17 — JOINT COMMITTEE ON ADVANCED COMMUNICATIONS AND INFORMATION TECHNOLOGY

SECTION.

10-3-1701. Purpose.

10-3-1702. Definitions.

10-3-1703. Joint Committee on Advanced Communications and Information Technology — Membership — Cochairs.

10-3-1704. Joint Committee on Advanced Communications and Information Technology — Members — Duties.

SECTION.

10-3-1705. Duties of joint standing committee.

10-3-1706. Joint Committee on Advanced Communications and Information Technology — Meetings.

10-3-1707. Interim committee meetings — Expenses — Staff.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-16 may not apply to this subchapter which was enacted subsequently.

Effective Dates. Acts 1995, No. 737, § 16: Mar. 22, 1995. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that advanced communications and information technology is having a profound impact on the fields of education and medicine; that the purpose of this act is to coordinate and enhance our state’s effort to utilize advanced communications and information technology; and that this act is immediately necessary in order for the committees created by the act to begin their work. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1997, No. 914, § 35: July 1, 1997. Emergency clause provided: “It is found and determined by the Eighty-First General Assembly that continuing advances in the field of communications and information technology make it necessary to establish a Department of Information Systems within the Executive Department of Government to better coordinate and utilize such technology; and that in the event of an extension of the Regular Session, the delay in the effective date of this act beyond July 1, 1997, could work

irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1997.”

Acts 1997, No. 1354, § 51: Apr. 14, 1997. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act affects the method of selection of alternate members of the Legislative Council and Legislative Joint Auditing Committee and that this act is immediately necessary for proper continuity and efficiency in State government. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 1999, No. 3, § 5: Jan. 19, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the area of advanced communications and informa-

tion technology is a rapidly growing and changing area of education; that the facilitation of policy development for advanced communications and information technology is necessary for the advancement of interest of the state; that the effectiveness of this Act is essential to the operation of the Joint Committee on Advanced Communications and Information Technology, and that a delay in the effective date could work irreparable harm upon the proper administration and provisions of an essential governmental committee. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 3, § 4: Jan. 11, 2001. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Senate has created a Senate Committee on Information Technology and Legislative Affairs; that a similar committee should be created for

the House of Representatives; that this act accomplishes that purpose; and that this act should go into effect as soon as possible in order that bills may be assigned to that committee during this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state's fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

10-3-1701. Purpose.

The General Assembly finds and declares that it is in the highest public interest to provide appropriate means for the continued development and enhancement of educational opportunities, medical care services, and governmental operations throughout the State of Arkansas through the use of the public telecommunications infrastructure and networks employing advanced communication and information technology. Such technology and applications have strategic value for the economy for the State of Arkansas, will strengthen the state's connection to the national and international information infrastructure, and will enable the state and its citizens access to a statewide public telecommunications and information infrastructure capable of connecting government agencies, connecting all seventy-five (75) counties, providing Arkansas citizens access to government information, and being continuously upgraded through the addition of compatible new technology.

History. Acts 1995, No. 737, § 1. § 1, was also codified as § 25-26-101 [repealed].
Publisher's Notes. Acts 1995, No. 737, § 1, was also codified as § 25-26-101 [repealed].

10-3-1702. Definitions.

For the purpose of this subchapter:

(1) "Distance learning" means an interactive telecommunications system that:

(A) Utilizes information technology, audio, video, and other appropriate elements and is compatible with other distance learning networks; and

(B) Is used for the purpose of enhancing instructional opportunities in Arkansas public schools, technical colleges, community colleges, and universities, and economic development opportunities in business and industry;

(2) "Governmental entity" means any department, board, bureau, commission, or other agency of the state or any entity created by law to provide services to the state;

(3) "Information technology" means the totality of means employed to collect, classify, process, store, retrieve, evaluate, and disseminate information in voice, video, and data form;

(4) "Infrastructure" means an interlinked system of wires, cables, fiber optics, or other wireline or wireless communications media;

(5) "Medical facilities" means any fully licensed and accredited, publicly or privately funded, medical care providers that furnish either inpatient or outpatient services;

(6) "Network" means an interlinked system of users;

(7) "Public access" means access by the public to public information through the use of information technology;

(8) "Public information" means any information stored, gathered, or generated in electronic or magnetic form by the State of Arkansas or its agencies or instrumentalities included within the information deemed to be public pursuant to the Freedom of Information Act of 1967, § 25-19-101 et seq., and amendments thereto;

(9) "Public telecommunications" means the facilities used in providing telecommunication services to the public, including, but not limited to, facilities owned and operated by public utilities;

(10) "Telemedicine" means an interactive telecommunications system that:

(A) Utilizes information technology, audio, video, and other appropriate elements and is compatible with other telemedicine networks; and

(B) Is used for the purpose of enhancing the delivery of medical information and health care to medical facilities in rural and urban areas throughout Arkansas; and

(11) "Universal access" means access to the public telecommunications infrastructure or the state's information system by all state governmental entities.

History. Acts 1995, No. 737, § 2.

§ 2, was also codified as § 25-26-102 [repealed].

Publisher's Notes. Acts 1995, No. 737,

10-3-1703. Joint Committee on Advanced Communications and Information Technology — Membership — Cochairs.

(a)(1) There is created a joint standing committee of the House of Representatives and the Senate to be known as the "Joint Committee on Advanced Communications and Information Technology".

(2) This Joint Committee on Advanced Communications and Information Technology shall function as established by law.

(b)(1) The Joint Committee on Advanced Communications and Information Technology shall be a select committee of the House and the Senate, whose members shall be chosen as follows:

(A)(i) Seven (7) members of the Senate to consist of the members of the Senate Committee on Technology and Legislative Affairs.

(ii) Any vacancy shall be filled according to the Rules of the Senate on seniority; and

(B)(i) Ten (10) members of the House to be selected by the Speaker of the House of Representatives.

(ii)(a) One (1) alternate member for each of the House members shall be selected by the Speaker of the House of Representatives.

(b) Vacancies in the House membership on the Joint Committee on Advanced Communications and Information Technology shall be filled by the Speaker of the House of Representatives in accordance with the Rules of the House of Representatives.

(2) In the event a vacancy shall occur on the Joint Committee on Advanced Communications and Information Technology, the vacancy shall be filled in the manner as provided for in this section.

(c) Members appointed to the Joint Committee on Advanced Communications and Information Technology shall serve on the Joint Committee on Advanced Communications and Information Technology in addition to their service on the regular standing, joint, and select committees.

(d)(1) The Chair of the Senate Committee on Technology and Legislative Affairs shall serve as the Senate Cochair of the Joint Committee on Advanced Communications and Information Technology, and the Speaker of the House of Representatives shall designate one (1) of the House members appointed to the Joint Committee on Advanced Communications and Information Technology to serve as the House Cochair of the Joint Committee on Advanced Communications and Information Technology.

(2) The cochairs of the Joint Committee on Advanced Communications and Information Technology shall preside at alternate meetings of the Joint Committee on Advanced Communications and Information Technology, unless the cochairs shall agree otherwise.

History. Acts 1995, No. 737, §§ 3, 5; 1999, No. 3, § 1; 2001, No. 3, § 1; 2001, No. 627, § 5.

10-3-1704. Joint Committee on Advanced Communications and Information Technology — Members — Duties.

(a) The members of the House of Representatives and the Senate appointed at each regular session of the General Assembly to the Joint Committee on Advanced Communications and Information Technology shall constitute a joint committee of the General Assembly to function during and in the interim between the sine die adjournment or extended recess of the regular session or fiscal session of each General Assembly, until the convening of the next regular session or fiscal session of the General Assembly or reconvening of the current General Assembly, or during an extended recess.

(b)(1)(A) The Joint Committee on Advanced Communications and Information Technology shall make continuing studies concerning the development of access to a statewide public telecommunications network for distance learning, telemedicine, universal access for governmental entities, and other issues concerning advanced communications and information technology, either initiated by the Joint Committee on Advanced Communications and Information Technology or referred to it by either house of the General Assembly for study, in the interim between sessions of the General Assembly.

(B)(i) Interim study proposals and resolutions filed with the Legislative Council under the provisions of § 10-3-214 for review and referral to the appropriate germane interim committee of the General Assembly, relating to advanced communications and information technology, shall be referred to the Joint Committee on Advanced Communications and Information Technology.

(ii) The Joint Committee on Advanced Communications and Information Technology shall undertake each study referred to it by members of the General Assembly or by the Legislative Council and shall submit a report of its findings and recommendations in regard to each study request to the General Assembly prior to the convening of the next session of the General Assembly.

(iii) The Joint Committee on Advanced Communications and Information Technology shall review any plan developed or updated by a public instrumentality.

(2) In addition, the Joint Committee on Advanced Communications and Information Technology shall exercise leadership in the interim between legislative sessions and shall attempt to coordinate for the various committees of the General Assembly the various activities, studies, and planning activities of the General Assembly which relate to the development of access to a statewide public telecommunications information infrastructure.

(3) The Joint Committee on Advanced Communications and Information Technology shall have the power and authority, upon approval of a majority of the members of the Joint Committee on Advanced

Communications and Information Technology, to subpoena persons, documents, and records. However, no action of the Joint Committee on Advanced Communications and Information Technology regarding the exercise of the subpoena power shall be taken except upon notice of at least one (1) week to all members of the Joint Committee on Advanced Communications and Information Technology or upon a two-thirds ($\frac{2}{3}$) vote of the membership of the Joint Committee on Advanced Communications and Information Technology.

(4) The Joint Committee on Advanced Communications and Information Technology shall cooperate with the Governor, with public secondary and postsecondary institutions of education, with the appropriate administrative agencies of this state, with legislative and administrative agencies and institutions of other states, and with the federal government and others in the planning and development of access to a statewide public telecommunications infrastructure linking institutions, businesses, government agencies, schools, hospitals, libraries, communities, and other public and private entities to the national information infrastructure.

(c) The Joint Committee on Advanced Communications and Information Technology shall exercise appropriate legislative oversight of the operations of the Department of Information Systems.

History. Acts 1995, No. 737, § 5; 1997, No. 914, § 22; 1997, No. 1354, § 28; 2007, No. 751, § 5; 2009, No. 248, § 3; 2009, No. 962, § 25.

A.C.R.C. Notes. Acts 2001, No. 1042, § 8, provided: "The current Department of Information Systems Steering Committee and the Department of Information Systems Advisory Board are hereby abolished."

Amendments. The 2007 amendment

deleted former (b)(1)(B)(iii)(b), and redesignated the remaining provision accordingly.

The 2009 amendment by No. 248 rewrote (c).

The 2009 amendment by No. 962, in (a), inserted "session or fiscal" following "extended recess of the regular" and inserted "or fiscal" following "convening of the next regular"; and deleted "regular" following "convening of the next" in (b)(1)(B)(ii).

10-3-1705. Duties of joint standing committee.

Bills pertaining to the Department of Information Systems, advanced communications and information technology, telemedicine, distance learning, or public information access shall be referred to the Joint Committee on Advanced Communications and Information Technology or the Committee on Advanced Communications and Information Technology, as appropriate.

History. Acts 1995, No. 737, § 4; 1997, No. 914, § 23; 2001, No. 3, § 2.

10-3-1706. Joint Committee on Advanced Communications and Information Technology — Meetings.

The Joint Committee on Advanced Communications and Information Technology shall meet upon call by either or both of the cochairs of the

Joint Committee on Advanced Communications and Information Technology, or at such other times as may be provided in the rules of the Joint Committee on Advanced Communications and Information Technology, or upon written call by any seven (7) of its members.

History. Acts 1995, No. 737, § 6.

10-3-1707. Interim committee meetings — Expenses — Staff.

(a) The per diem and mileage, including reimbursement for expenses for attending out-of-state meetings as provided by law, shall be paid from funds appropriated for per diem, mileage, and expenses of members of the General Assembly for attending interim committee meetings or from other funds provided by law for that purpose.

(b) The Bureau of Legislative Research shall furnish such staff assistance as may be requested by the Joint Committee on Advanced Communications and Information Technology.

(c) All other appropriate state agencies, including, but not limited to, the Department of Information Systems, the Arkansas Science and Technology Authority, and public colleges and universities in the State of Arkansas, shall be available to assist the committee on advanced communications and information technology matters as may be requested by the Joint Committee on Advanced Communications and Information Technology.

History. Acts 1995, No. 737, § 7; 1997, No. 914, § 24; 1997, No. 1354, § 29.

SUBCHAPTER 18 — COMMITTEE ON ADVANCED COMMUNICATIONS AND INFORMATION TECHNOLOGY

SECTION.

10-3-1801. Creation.

A.C.R.C. Notes. References to “this chapter” in subchapters 1-16 may not apply to this subchapter which was enacted subsequently.

Effective Dates. Acts 2001, No. 3, § 4: Jan. 11, 2001. Emergency clause provided: “It is hereby found and determined by the General Assembly that the Senate has created a Senate Committee on Information Technology and Legislative Affairs; that a similar committee should be created for the House of Representatives; that this act accomplishes that purpose; and that this act should go into effect as soon as possible in order that bills may be

assigned to that committee during this regular session. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

10-3-1801. Creation.

There is created the "Committee on Advanced Communications and Information Technology" of the House of Representatives to be composed of the members of the House on the Joint Committee on Advanced Communications and Information Technology.

History. Acts 2001, No. 3, § 3.

**SUBCHAPTER 19 — ARKANSAS STATE GAME AND FISH COMMISSION
OVERSIGHT COMMITTEE****SECTION.**

10-3-1901. Creation.

10-3-1902. Membership.

SECTION.

10-3-1903. Duties.

10-3-1901. Creation.

There is established the "Arkansas State Game and Fish Commission Oversight Committee" of the General Assembly, which shall have the authority to conduct an interim study into the long-term funding needs and potential long-term financial sources for the Arkansas State Game and Fish Commission.

History. Acts 2001, No. 1389, § 1.

10-3-1902. Membership.

(a) The Arkansas State Game and Fish Commission Oversight Committee shall consist of:

(1) Nine (9) members from the Senate appointed by the President Pro Tempore of the Senate; and

(2) Nine (9) members of the House of Representatives appointed by the Speaker of the House of Representatives.

(b)(1) Members of the Arkansas State Game and Fish Commission Oversight Committee shall be entitled to per diem and mileage for attending meetings of the Arkansas State Game and Fish Commission Oversight Committee at the same rate as is provided by law for members of joint interim committees.

(2) The per diem and mileage shall be paid from funds appropriated for payment of per diem and mileage of members of joint interim committees.

History. Acts 2001, No. 1389, § 1.

10-3-1903. Duties.

The Arkansas State Game and Fish Commission Oversight Committee shall examine possible methods to increase the potential revenue for the Arkansas State Game and Fish Commission and make recommendations for legislation to the Governor and to the General Assembly.

History. Acts 2001, No. 1389, § 1.

SUBCHAPTER 20 — JOINT INTERIM COMMITTEE ON HEALTH INSURANCE AND PRESCRIPTION DRUGS

SECTION.

10-3-2001 — 10-3-2003. [Repealed.]

10-3-2001 — 10-3-2003. [Repealed.]

Publisher's Notes. This subchapter, concerning the Joint Interim Committee on Health Insurance and Prescription Drugs, was repealed by Acts 2007, No. 731, § 1. The subchapter was derived from the following sources:

10-3-2001. Acts 2003, No. 1392, § 1.

10-3-2002. Acts 2003, No. 1392, § 2.

10-3-2003. Acts 2003, No. 1392, § 3.

SUBCHAPTER 21 — CONTINUING ADEQUACY EVALUATION ACT OF 2004

SECTION.

10-3-2101. Purpose and findings.

10-3-2102. Duties.

SECTION.

10-3-2103. Investigations.

10-3-2104. Report.

A.C.R.C. Notes. Acts 2007, No. 1204, § 3, provided: "The purpose of this act is to strengthen and preserve the integrity of the Continuing Adequacy Evaluation Act of 2004, Arkansas Code § 10-3-2101 et seq., by further defining its provisions to

ensure that future assessments, evaluations, and monitoring of the state's public education system by the General Assembly will continue to be conducted in a thorough, well-informed and meaningful manner."

10-3-2101. Purpose and findings.

(a) The General Assembly recognizes that it is the responsibility of the State of Arkansas to:

(1) Develop what constitutes an adequate education in Arkansas pursuant to the mandate of the Supreme Court and to conduct an adequacy study, which has been completed; and

(2) Know how revenues of the State of Arkansas are being spent and whether true equality in educational opportunity is being achieved.

(b) The General Assembly also recognizes that no one (1) study can fully define what is an adequate, efficient, and equitable education.

(c) The General Assembly further recognizes that while the adequacy study performed in 2003 is an integral component toward satisfying the requirements imposed by the Supreme Court, the General Assembly has a continuing duty to assess what constitutes an adequate education in the State of Arkansas.

(d) Therefore, because the State of Arkansas has an absolute duty to provide the school children of the State of Arkansas with an adequate

education, the General Assembly finds that ensuring that an adequate and equitable system of public education is available in the State of Arkansas shall be the ongoing priority for the State of Arkansas.

History. Acts 2003 (2nd Ex. Sess.), No. 57, § 1.

10-3-2102. Duties.

(a) During each interim, the House Committee on Education and the Senate Committee on Education shall meet separately or jointly, as needed, to:

(1) Assess, evaluate, and monitor the entire spectrum of public education across the State of Arkansas to determine whether equal educational opportunity for an adequate education is being substantially afforded to the school children of the State of Arkansas and recommend any necessary changes;

(2) Review and continue to evaluate what constitutes an adequate education in the State of Arkansas and recommend any necessary changes;

(3) Review and continue to evaluate the method of providing equality of educational opportunity of the State of Arkansas and recommend any necessary changes;

(4) Evaluate the effectiveness of any program implemented by a school, a school district, an education service cooperative, the Department of Education, or the State Board of Education and recommend necessary changes;

(5) Review the average teacher salary in the State of Arkansas in comparison to average teacher salaries in surrounding states and member states of the Southern Regional Education Board and make recommendations for any necessary changes to teacher salaries in the State of Arkansas established by law;

(6) Review and continue to evaluate the costs of an adequate education for all students in the State of Arkansas, taking into account cost-of-living variances, diseconomies of scale, transportation variability, demographics, school districts with a disproportionate number of students who are economically disadvantaged or have educational disabilities, and other factors as deemed relevant, and recommend any necessary changes;

(7) Review and continue to evaluate the amount of per-student expenditure necessary to provide an equal educational opportunity and the amount of state funds to be provided to school districts, based upon the cost of an adequate education and monitor the expenditures and distribution of state funds and recommend any necessary changes;

(8) Review and monitor the amount of funding provided by the State of Arkansas for an education system based on need and the amount necessary to provide an adequate educational system, not on the amount of funding available, and make recommendations for funding for each biennium.

(b) As a guidepost in conducting deliberations and reviews, the committees shall use the opinion of the Supreme Court in the matter of *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), and other legal precedent.

(c) The Department of Education, the Department of Career Education, and the Department of Higher Education shall provide the House Committee on Education and the Senate Committee on Education with assistance and information as requested by the House Committee on Education and the Senate Committee on Education.

(d) The Attorney General is requested to provide assistance to the House Committee on Education and the Senate Committee on Education as needed.

(e) Contingent upon the availability of funding, the House Committee on Education, the Senate Committee on Education, or both, may enter into an agreement with outside consultants or other experts as may be necessary to conduct the adequacy review as required under this section.

(f) The study for subdivisions (a)(1)-(4) of this section shall be accomplished by:

(1) Reviewing a report prepared by the Division of Legislative Audit compiling all funding received by public schools for each program;

(2) Reviewing the curriculum frameworks developed by the Department of Education;

(3) Reviewing the Arkansas Comprehensive Testing, Assessment, and Accountability Program, § 6-15-401 et seq.;

(4) Reviewing fiscal, academic, and facilities distress programs;

(5) Reviewing the state's standing under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq.;

(6) Reviewing the Arkansas Comprehensive School Improvement Plan process; and

(7) Reviewing the specific programs identified for further study by the House Committee on Education and the Senate Committee on Education.

(g)(1) The study for subdivision (a)(5) of this section shall be accomplished by comparing the average teacher salary in Arkansas with surrounding states and Southern Regional Education Board member states, including without limitation:

(A) Comparing teacher salaries as adjusted by a cost of living index or a comparative wage index;

(B) Reviewing the minimum teacher compensation salary schedule; and

(C) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

(2) Depending on the availability of National Education Association data on teacher salaries in other states, the teacher salary comparison may be prepared as a supplement to the report after September 1.

(h) The study for subdivision (a)(6) of this section shall be accomplished by reviewing:

- (1) Expenditures from:
 - (A) Isolated school funding;
 - (B) National school lunch student funding;
 - (C) Declining enrollment funding;
 - (D) Student growth funding;
 - (E) Special education funding;
- (2) Disparities in teacher salaries; and
- (3) Any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.
 - (i) The study for subdivision (a)(7) of this section shall be accomplished by:
 - (1) Completing an expenditure analysis and resource allocation review each biennium; and
 - (2) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.
 - (j) The study for subdivision (a)(8) of this section shall be accomplished by:
 - (1) Using evidence-based research as the basis for recalibrating as necessary the state's system of funding public education;
 - (2) Adjusting for the inflation or deflation of any appropriate component of the system of funding public education every two (2) years;
 - (3) Reviewing legislation enacted or rules promulgated during the biennium covered by the study to determine the impact of the legislation and rules on educational adequacy-related public school costs; and
 - (4) Reviewing any related topics identified for further study by the House Committee on Education and the Senate Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 57, § 1; 2005, No. 723, § 1; 2007, No. 1204, § 1; 2011, No. 725, § 1.

A.C.R.C. Notes. Acts 2007, No. 1204, § 3, provided: "The purpose of this act is to strengthen and preserve the integrity of the Continuing Adequacy Evaluation Act of 2004, Arkansas Code § 10-3-2101 et seq., by further defining its provisions to ensure that future assessments, evalua-

tions, and monitoring of the state's public education system by the General Assembly will continue to be conducted in a thorough, well-informed and meaningful manner."

Amendments. The 2007 amendment added (f) through (j).

The 2011 amendment inserted present (j)(3) and redesignated former (j)(3) as (j)(4).

10-3-2103. Investigations.

(a) The House Committee on Education and the Senate Committee on Education shall have the authority to conduct investigations pertaining to the effectiveness of any and all education programs of:

- (1) Any school;
- (2) Any school district;
- (3) Any service cooperative;
- (4) Any institution;
- (5) The Department of Education or its successors; or

(6) The State Board of Education or any department under the board's authority.

(b)(1) In connection with any investigation, the House Committee on Education and the Senate Committee on Education shall have the right and the power to subpoena witnesses and to issue subpoena duces tecum, pursuant to § 10-3-208.

(2) The chairs and the cochairs of the House Committee on Education and the Senate Committee on Education are authorized to administer oaths.

History. Acts 2003 (2nd Ex. Sess.), No. 57, § 1.

10-3-2104. Report.

(a) The House Committee on Education and the Senate Committee on Education shall file separately or jointly, or both, reports of their findings and recommendations with the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than November 1 of each year before the convening of a regular session.

(b) For each recommendation the report shall include proposed implementation schedules with timelines, specific steps, agencies and persons responsible, resources needed, and drafts of bills proposing all necessary and recommended legislative changes.

(c) The report shall be supplemented as needed to accomplish the purposes of this continuing evaluation.

(d)(1) Before a fiscal session, the House Committee on Education and the Senate Committee on Education shall meet, jointly or separately as needed, to review the funding recommendations contained in the most recent report filed under this section.

(2) The House Committee on Education and the Senate Committee on Education, meeting jointly or separately as needed, also shall review any other matters identified by the House Committee on Education or the Senate Committee on Education that may affect the state's obligation to provide a substantially equal opportunity for an adequate education for all public school students.

(3) By November 1 of the calendar year before the beginning of a fiscal session, if the House Committee on Education and the Senate Committee on Education find that the recommendations in the most recent adequacy evaluation report filed under this section should be amended, the House Committee on Education and the Senate Committee on Education, jointly or separately, or both, shall advise in writing the President Pro Tempore of the Senate and the Speaker of the House of Representatives of their findings and amendments to the adequacy evaluation report.

(e) The House Committee on Education or the Senate Committee on Education, separately or jointly, shall publish a draft of the report required under this section or any amendment or supplement to the report not less than fourteen (14) days before the report, amendment, or

supplement is submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

History. Acts 2003 (2nd Ex. Sess.), No. 57, § 1; 2007, No. 1204, § 2; 2009, No. 199, § 1; 2011, No. 725, § 2.

A.C.R.C. Notes. Acts 2007, No. 1204, § 3, provided: "The purpose of this act is to strengthen and preserve the integrity of the Continuing Adequacy Evaluation Act of 2004, Arkansas Code § 10-3-2101 et seq., by further defining its provisions to ensure that future assessments, evaluations, and monitoring of the state's public education system by the General Assem-

bly will continue to be conducted in a thorough, well-informed and meaningful manner."

Amendments. The 2007 amendment added (c).

The 2009 amendment added (d).

The 2011 amendment substituted "November 1" for "September 1" in (a) and (d)(3); deleted "under Arkansas Constitution, Article 5, § 5" following "session" in (d)(1); and added (e).

SUBCHAPTER 22 — ACADEMIC FACILITIES OVERSIGHT COMMITTEE

SECTION.

10-3-2201. Academic Facilities Oversight Committee.

10-3-2202. Powers and duties.

SECTION.

10-3-2203. Committee assistance.

10-3-2204. Meetings — Reimbursement of expenses.

Effective Dates. Acts 2005, No. 1424, § 3; Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in the State of Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of school facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that one of the recommendations of the joint committee is to authorize the Division of Public School Academic Facilities to begin work immediately as a viable state agency; that the new division immediately needs, and will continue to need, the advice of an advisory committee comprised of members with expertise in public school design and construction and with issues particular to providing adequate and equitable public school academic facilities; that an advisory committee with the necessary expertise does not currently

exist; that in response to the work of the joint committee, the General Assembly is in the process of developing and enacting legislation designed to establish a comprehensive program for overseeing the provision of adequate and substantially equal public school academic facilities across the state; that the General Assembly immediately needs, and will continue to need, the advice of an organized legislative committee comprised of members with expertise in issues particular to providing adequate and equitable public school academic facilities; and that an organized legislative committee with the necessary expertise does not currently exist. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-3-2201. Academic Facilities Oversight Committee.

(a) There is created a legislative committee to be known as the Academic Facilities Oversight Committee.

(b) The Academic Facilities Oversight Committee shall consist of fifteen (15) members as follows:

(1)(A) Seven (7) members of the Senate as follows:

(i) One (1) member who is the Chair of the Senate Committee on Education or his or her designee;

(ii) Two (2) members of the Senate Committee on Education appointed by the Chair of the Senate Committee on Education; and

(iii) Four (4) members of the Senate appointed by the President Pro Tempore of the Senate.

(B) In the event that the Chair of the Senate Committee on Education and the President Pro Tempore of the Senate are the same person, the Vice Chair of the Senate Committee on Education shall make the appointments under subdivision (b)(1)(A)(ii) of this section;

(2)(A) Seven (7) members of the House of Representatives as follows:

(i) One (1) member who is the Chair of the House Committee on Education or his or her designee;

(ii) Two (2) members of the House Committee on Education to be appointed by the Chair of the House Committee on Education; and

(iii) Four (4) members of the House to be appointed by the Speaker of the House of Representatives.

(B) In the event that the Chair of the House Committee on Education and the Speaker of the House of Representatives are the same person, the Vice Chair of the House Committee on Education shall make the appointments under subdivision (b)(2)(A)(ii) of this section; and

(3) The Director of the Division of Public School Academic Facilities and Transportation who shall serve as a nonvoting ex officio member.

(c) The Chair of the Senate Committee on Education or the chair's designee and the Chair of the House Committee on Education or the chair's designee shall serve as cochair of the committee.

(d) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.

(e)(1) The Academic Facilities Oversight Committee shall meet upon the call of either or both of the cochair of the Academic Facilities Oversight Committee.

(2) Eight (8) members of the Academic Facilities Oversight Committee shall constitute a quorum for the purpose of transacting business.

(3) A quorum is required for any action of the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1424, § 1.

10-3-2202. Powers and duties.

(a) The Academic Facilities Oversight Committee shall:

(1) Oversee development and implementation of state statutory requirements with regard to providing constitutionally appropriate public school academic facilities and related equipment for all public schools in the State of Arkansas as necessary to provide an equal opportunity for an adequate education for all public school students in Arkansas;

(2) Appoint members of the Advisory Committee on Public School Academic Facilities established to assist the Division of Public School Academic Facilities and Transportation;

(3) Review and recommend policies and criteria for the repair, maintenance, renovation, remodeling, replacement, and construction of public school academic facilities;

(4) Oversee local and state expenditures related to providing constitutionally appropriate public school academic facilities and related equipment;

(5) Review the effectiveness of methods used to fund the cost of constitutionally appropriate public school academic facilities and equipment;

(6) Review the ongoing assessment, evaluation, and inspection of public school academic facilities to provide that constitutionally appropriate public school academic facilities are, and will continue to be, provided for public school students in Arkansas; and

(7) Use the opinions of the Supreme Court in the matter of Lake View School District No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002) and other legal precedent relevant to public school academic facilities.

(b)(1)(A) The Academic Facilities Oversight Committee shall report its findings and recommendations to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, and the Senate Committee on Education no later than October 1 before each regular session of the General Assembly.

(B) Upon motion of the Academic Facilities Oversight Committee and approval by a quorum of the committee, the October 1 report deadline may be extended for a period to be determined by the Academic Facilities Oversight Committee.

(2) The report shall include for each recommendation, proposed implementation schedules with timelines, specific steps, agencies and persons responsible, and resources needed.

(3) When feasible, the Academic Facilities Oversight Committee shall propose plans, measures, and initiatives as recommendations for legislation or regulation.

10-3-2203. Committee assistance.

(a) The Department of Education, the Department of Career Education, the Department of Higher Education, the Division of Public School Academic Facilities and Transportation, and the Division of Public School Accountability shall provide the Academic Facilities Oversight Committee with assistance as requested by the Academic Facilities Oversight Committee.

(b) The Academic Facilities Oversight Committee may hire or contract with individuals or entities, both within the state and from out of state, for the purpose of obtaining staff or otherwise performing the duties of the Academic Facilities Oversight Committee to the extent funding is appropriated and available for that purpose.

(c) The Bureau of Legislative Research shall furnish reasonable staff assistance to the Academic Facilities Oversight Committee as may be requested by the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1424, § 1.

10-3-2204. Meetings — Reimbursement of expenses.

(a) The Academic Facilities Oversight Committee shall function during the interim between regular session, fiscal sessions, or special sessions of the General Assembly, while the General Assembly is in session, and while the General Assembly is in recess.

(b) If the Academic Facilities Oversight Committee meets at a time when the General Assembly is not in session, the legislative members of the Academic Facilities Oversight Committee are entitled to per diem and mileage reimbursement at the rate for attending meetings of the Legislative Council. The per diem or mileage reimbursement shall be paid from funds appropriated for the payment of per diem and mileage for attendance at meetings of interim committees of the General Assembly.

History. Acts 2005, No. 1424, § 1; inserted “session, fiscal sessions” following 2009, No. 962, § 26.

inserted “regular” in (a).

Amendments. The 2009 amendment

**SUBCHAPTER 23 — ARKANSAS LEGISLATIVE TASK FORCE ON ABUSED AND
NEGLECTED CHILDREN ACT**

SECTION.

10-3-2301. Title.

10-3-2302. Creation.

SECTION.

10-3-2303. Duties.

10-3-2301. Title.

This subchapter shall be known as the “Arkansas Legislative Task Force on Abused and Neglected Children Act”.

History. Acts 2005, No. 2000, § 1.

10-3-2302. Creation.

(a) There is created the Arkansas Legislative Task Force on Abused and Neglected Children.

(b) The task force shall consist of the following members:

(1) The Governor or the Governor's designee;

(2) The Chair of the House Committee on Public Health, Welfare, and Labor or the chair's designee;

(3) The Chair of the Senate Committee on Public Health, Welfare, and Labor or the chair's designee;

(4) The Chair of the Senate Interim Committee on Children and Youth or the chair's designee;

(5) The Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs or the chair's designee;

(6) The Director of the Division of Children and Family Services of the Department of Human Services or the director's designee;

(7) The Director of the Division of Mental Health Services of the Department of Human Services or the director's designee;

(8) The Director of the Division of Youth Services of the Department of Human Services or the director's designee;

(9) The Director of the Division of Child Care and Early Childhood Education of the Department of Human Services or the director's designee;

(10) The Director of the Administrative Office of the Courts or the director's designee;

(11) The Chair of the Arkansas Coalition for Juvenile Justice or the chair's designee;

(12) A sheriff to be appointed by the President of the Arkansas Sheriffs' Association;

(13) The Director of the Department of Arkansas State Police or the director's designee;

(14) The Chair of the State Child Abuse and Neglect Prevention Board or the chair's designee;

(15) One (1) member of the Arkansas Child Abuse/Rape/Domestic Violence Commission to be appointed by the Chancellor of the University of Arkansas for Medical Sciences;

(16) A public defender who regularly appears in the juvenile division of a circuit court in the State of Arkansas to be appointed by the Director of the Arkansas Public Defender Commission;

(17) A prosecutor who regularly appears in the juvenile division of a circuit court in the State of Arkansas to be appointed by the Prosecutor Coordinator;

(18) An attorney ad litem to be appointed by the Director of the Administrative Office of the Courts;

(19) A physician with special knowledge and experience in the treatment of children who have been abused or neglected;

(20) The Chief of Staff of Arkansas Children's Hospital or his or her designee;

(21) Two (2) members to be appointed by the President Pro Tempore of the Senate with specialized knowledge, skills, or experience in the area of child welfare or the prevention of child abuse and neglect;

(22) Two (2) members to be appointed by the Speaker of the House of Representatives with specialized knowledge, skills, or experience in the area of child welfare or the prevention of child abuse and neglect;

(23) Four (4) members to be appointed by the Governor;

(24) Chief Counsel of the Department of Human Services or his or her designee;

(25) A representative or an employee of a child advocacy center in the state; and

(26) A representative of the Arkansas Bar Association chosen by the Arkansas Bar Association.

(c)(1) The Chair of the Senate Interim Committee on Children and Youth or the chair's designee shall call the first meeting within ninety (90) days of the adjournment of the regular session of the General Assembly and shall serve as chair at the first meeting.

(2) At the first meeting, the members of the task force shall elect from its membership a chair and other officers as needed for the transaction of its business.

(3)(A) The task force shall conduct its meetings in Pulaski County at the State Capitol unless another location is approved by the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(B) Meetings shall be held at least one (1) time every three (3) months, but may occur more often at the call of the chair.

(d) If any vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.

(e) The task force shall establish rules and procedures for conducting its business.

(f)(1) Nonlegislator members of the task force shall serve without compensation.

(2) Legislator members shall be entitled to reimbursement for per diem and mileage at the same rate and from the same source as provided by law for members of the General Assembly attending meetings of interim committees.

(3) The task force may be allowed study expenses for the calling of expert witnesses to testify, if the expenditure is approved by the Legislative Council. If the expenditure is approved, payment shall be made by the Bureau of Legislative Research from the appropriation for interim committee study expenses.

(g) A majority of the members of the task force shall constitute a quorum for transacting any business of the task force.

(h) The bureau shall provide staff for the task force.

(i) The task force shall submit its final report to the House Committee on Public Health, Welfare, and Labor; the Senate Committee on Public Health, Welfare, and Labor; the House Committee on Aging, Children and Youth, Legislative and Military Affairs; and the Senate

Interim Committee on Children and Youth. The final report shall be submitted no later than November 30, 2008.

(j) The task force shall cease to exist on June 30, 2013, and this section shall expire on June 30, 2013.

History. Acts 2005, No. 2000, § 1; 2007, No. 1035, § 1; 2009, No. 494, § 1; 2011, No. 1149, §§ 1-3.

The 2009 amendment substituted "2010" for "2008" twice in (j).

Amendments. The 2007 amendment rewrote (b)(23) and (24), and added (b)(25); in (c)(1), substituted "ninety (90)" for "thirty (30)" and "the adjournment of the regular session of the General Assembly" for "August 12, 2005"; rewrote present (f)(1), and added (f)(2) and (3); added (i) and (j); and made related changes.

The 2011 amendment inserted (b)(26); added "unless another location is approved by the Speaker of the House of Representatives and the President Pro Tempore of the Senate" to the end of (c)(3)(A); and substituted "June 30, 2013" for "December 31, 2010" twice in (j).

10-3-2303. Duties.

The Arkansas Legislative Task Force on Abused and Neglected Children shall:

(1) Examine how the State of Arkansas responds to child abuse and neglect with a focus on the following main areas using a child-centered approach:

- (A) Reporting, investigating, and multidisciplinary cooperation;
- (B) Legal advocacy for children in courts;
- (C) Foster care and adoption;
- (D) Training and workforce needs;
- (E) Criminal justice and public safety;
- (F) Neglect and family support; and
- (G) Accountability;

(2) Determine the best practices to prevent child abuse and neglect and to improve child welfare by conducting national research or by using other methods;

(3) Recommend more efficient methods of distributing and spending limited public moneys to prevent child abuse and neglect and to improve child welfare;

(4) Recommend how to obtain more federal funds to prevent child abuse and neglect and to improve child welfare;

(5) Recommend to the General Assembly specific changes to the law that will improve child safety and welfare in the State of Arkansas in the form of bill drafts; and

(6) Provide the General Assembly with a written explanation of the recommended legislative changes.

History. Acts 2005, No. 2000, § 1.

SUBCHAPTER 24 — ARKANSAS LEGISLATIVE TASK FORCE ON HIGHER EDUCATION REMEDIATION, RETENTION, AND GRADUATION RATES

SECTION.

10-3-2401 — 10-3-2404. [Repealed.]

10-3-2401 — 10-3-2404. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas Legislative Task Force on Higher Education Remediation, Retention, and Graduation Rates, was repealed by Acts 2009, No. 248, § 4. The subchapter was derived from the following sources:

10-3-2401. Acts 2007, No. 570, § 1.

10-3-2402. Acts 2007, No. 570, § 1.

10-3-2403. Acts 2007, No. 570, § 1.

10-3-2404. Acts 2007, No. 570, § 1.

SUBCHAPTER 25 — ARKANSAS CYBERINFRASTRUCTURE TASK FORCE ACT

SECTION.

10-3-2501. Title.

10-3-2502. Findings.

10-3-2503. Definition.

10-3-2504. Arkansas Cyberinfrastructure Task Force Creation —
Members.

SECTION.

10-3-2505. Purpose.

10-3-2506. Report.

10-3-2507. Staff support.

10-3-2508. Per diem.

10-3-2501. Title.

This subchapter shall be known as the “Arkansas Cyberinfrastructure Task Force Act”.

History. Acts 2009, No. 978, § 1.

10-3-2502. Findings.

In establishing the Arkansas Cyberinfrastructure Task Force, the General Assembly finds that:

(1) Implementation and sustainment of the 2008 Cyberinfrastructure Strategic Plan and associated policy development for cyberinfrastructure are crucial to the future of the state and its citizens and that the General Assembly must approach cyberinfrastructure policy development thoughtfully and consider both near-term and strategic goals in its deliberations; and

(2) The state will benefit from an improved understanding of cyberinfrastructure and the recommendation of cyberinfrastructure policies to leverage technology investments in order to:

(A) Energize the economic development system of the state; and

(B) Evolve cyberinfrastructure for the benefit of education, research, and business creation, including specifically commercialization of value-added products and services that increase gross state product, per capita income, and job and wealth creation in the state's economic development strategies.

History. Acts 2009, No. 978, § 1.

10-3-2503. Definition.

As used in this subchapter, “cyberinfrastructure” means shared high-performance computing, data storage systems, data repositories, advanced instruments, data center facilities, visualization environments, and people, all linked together by software and an advanced statewide optical network to improve and enable breakthroughs not otherwise possible.

History. Acts 2009, No. 978, § 1.

10-3-2504. Arkansas Cyberinfrastructure Task Force Creation — Members.

(a) There is created a legislative committee to be known as the “Arkansas Cyberinfrastructure Task Force”, to be composed of:

(1) The Director of the Department of Finance and Administration or his or her designee;

(2) The Director of the Department of Information Systems or his or her designee;

(3) The President of the Arkansas Science and Technology Authority or his or her designee;

(4) The chair or his or her designee and the vice chair or his or her designee of the Senate Committee on Public Transportation, Technology, and Legislative Affairs;

(5) The chair or his or her designee and the vice chair or his or her designee of the Committee on Advanced Communications and Information Technology;

(6)(A) Four (4) members appointed by the President Pro Tempore of the Senate from a list of ten (10) persons submitted by the Arkansas Broadband Advisory Council.

(B) The members selected under subdivision (a)(6)(A) of this section shall include:

(i) One (1) member with expertise in optical networks;

(ii) One (1) member with expertise in high-performance computing;

(iii) One (1) member with expertise in data center operation and management; and

(iv) One (1) member with expertise in at least one (1) of the following areas:

(a) Large-scale data storage;

(b) Computer visualization;

(c) Distributed authentication and authorization architectures;

(d) Distributed collaboration environments; or

(e) Other software architectures relevant to advanced cyberinfrastructure; and

(7)(A) Four (4) members appointed by the Speaker of the House of Representatives from a list of ten (10) persons from higher education

in the State of Arkansas submitted by the Arkansas Higher Education Coordinating Board.

(B) The members selected under subdivision (a)(7)(A) of this section shall include:

- (i) One (1) member with expertise in optical networks;
- (ii) One (1) member with expertise in high-performance computing;
- (iii) One (1) member with expertise in data center operation and management; and

(iv) One (1) member with expertise in at least one (1) of the following areas:

- (a) Large-scale data storage;
- (b) Computer visualization;
- (c) Distributed authentication and authorization architectures;
- (d) Distributed collaboration environments; or
- (e) Other software architectures relevant to advanced cyberinfrastructure.

(b) If a vacancy occurs on the task force, the vacancy shall be filled in the same manner as the original appointment.

(c) The cochair of the Joint Committee on Advanced Communications and Information Technology or the designee of a cochair of the Joint Committee on Advanced Communications and Information Technology shall serve as cochair of the task force and shall call meetings as appropriate.

(d)(1)(A) The task force may create by written resolution technical work groups.

(B) The written resolution for the creation of a technical work group shall specify the:

- (i) Duties and objectives of the technical work group; and
- (ii) Date the technical work group shall expire.

(2) The membership of a technical work group may include:

- (A) Members and staff of the task force; and
- (B) Individuals not affiliated with the task force.

(3) Members of the technical work groups shall serve at the pleasure of the task force without compensation.

(4) Technical work groups may be created without limitation in areas such as research applications, technology transfer, emergency management, telemedicine, educational outreach, student technologists, and other technical work groups as appropriate.

History. Acts 2009, No. 978, § 1.

10-3-2505. Purpose.

The purpose of the General Assembly in establishing the Arkansas Cyberinfrastructure Task Force is to:

(1) Create, implement, and sustain a globally competitive cyberinfrastructure strategy for the state; and

(2) Propose and recommend legislation for the General Assembly each year.

History. Acts 2009, No. 978, § 1.

10-3-2506. Report.

The Arkansas Cyberinfrastructure Task Force shall submit a report and its recommendations for any proposed legislation to the Joint Committee on Advanced Communications and Information Technology and the Legislative Council annually on or before August 1, beginning in 2010.

History. Acts 2009, No. 978, § 1.

10-3-2507. Staff support.

(a) Staff support for the Arkansas Cyberinfrastructure Task Force shall be provided by the Bureau of Legislative Research.

(b) Upon written request of the cochairs of the Arkansas Cyberinfrastructure Task Force, additional support shall be provided by agencies of state government.

History. Acts 2009, No. 978, § 1.

10-3-2508. Per diem.

(a) Legislative members of the Arkansas Cyberinfrastructure Task Force shall be paid per diem and mileage in the manner authorized by law for attendance at meetings of interim committees of the General Assembly.

(b) Nonlegislative members of the task force shall receive per diem and mileage at the rate authorized by law for attendance at meetings of interim committees of the General Assembly if funds are available and appropriated by the General Assembly to pay per diem and mileage to nonlegislative members of the task force.

History. Acts 2009, No. 978, § 1.

SUBCHAPTER 26 — ARKANSAS LEGISLATIVE TASK FORCE ON AUTISM ACT

SECTION.

10-3-2601. Title.
10-3-2602. Arkansas Legislative Task Force on Autism — Creation.

SECTION.

10-3-2603. Arkansas Legislative Task Force on Autism — Duties.

10-3-2601. Title.

This subchapter shall be known and may be cited as the “Arkansas Legislative Task Force on Autism Act”.

History. Acts 2009, No. 1272, § 1.

10-3-2602. Arkansas Legislative Task Force on Autism — Creation.

- (a) The Arkansas Legislative Task Force on Autism is created.
- (b) The task force shall consist of the following members:
 - (1) One (1) member of the House of Representatives, appointed by the Speaker of the House of Representatives;
 - (2) One (1) member of the Senate, appointed by the President Pro Tempore of the Senate;
 - (3) One (1) member who is an employee of the Division of Medical Services of the Department of Human Services, appointed by the Director of the Department of Human Services;
 - (4) One (1) member who is a Board Certified Behavior Analyst, appointed by the Arkansas Psychology Board;
 - (5) One (1) member to represent Easter Seals, appointed by Easter Seals Arkansas;
 - (6) The Director of the Division of Developmental Disabilities Services of the Department of Human Services;
 - (7) The Behavior Intervention Coordinator of the Department of Education;
 - (8) One (1) member to represent Arkansas Blue Cross and Blue Shield;
 - (9) One (1) member who is a pediatric physician who regularly works with autistic patients, appointed by the Dennis Developmental Center of the Department of Pediatrics of the University of Arkansas for Medical Sciences;
 - (10) One (1) member who is a clinical geneticist, appointed by the University of Arkansas for Medical Sciences;
 - (11) One (1) member to represent Partners for Inclusive Communities of the University Centers of Excellence in Developmental Disabilities Education, Research, and Service of the University of Arkansas for Medical Sciences;
 - (12) The Behavior Intervention Services Coordinator for the Department of Education;
 - (13) The Associate Director of Special Education of the Department of Education;
 - (14) One (1) public school Special Education Supervisor, appointed by the Arkansas Association of Special Education Administrators;
 - (15) One (1) member to represent the Arkansas Children's Hospital Research Institute, appointed by Arkansas Children's Hospital;
 - (16) Four (4) members who are parents or guardians of children with autism, appointed by the Speaker of the House of Representatives; and
 - (17) Four (4) members who are parents or guardians of children with autism, appointed by the President Pro Tempore of the Senate.
- (c)(1) The Speaker of the House of Representatives shall call the first of the task force meetings within thirty (30) days of July 31, 2009.

(2) At the first meeting, the members of the task force shall elect from the membership a chair and other officers as needed for the transaction of its business.

(3)(A) The task force shall conduct its meetings in Pulaski County at the State Capitol.

(B) Meetings shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair.

(d)(1) If a vacancy occurs among the legislative members of the task force, the vacancy shall be filled by the same process as the original appointment.

(2) If a vacancy occurs among the nonlegislative members of the task force, the vacancy shall be filled by vote of the task force.

(e) The task force shall establish rules and procedures for conducting its business.

(f) A majority of the members of the task force shall constitute a quorum for transacting any business of the task force.

(g) The Bureau of Legislative Research shall provide staff for the task force.

History. Acts 2009, No. 1272, § 1.

10-3-2603. Arkansas Legislative Task Force on Autism — Duties.

(a) The Arkansas Legislative Task Force on Autism shall:

(1) Examine how the State of Arkansas responds to autism and autism spectrum disorders;

(2) Determine the best practices to treat autism and autism spectrum disorders;

(3) Recommend more efficient methods for treating autism and autism spectrum disorders;

(4) Recommend how to obtain more federal funds for treating autism and autism spectrum disorders and provide special education to children with autism and autism spectrum disorders; and

(5) Recommend to the General Assembly specific changes to the law that will improve treatment of autism and autism spectrum disorders and improve the provision of special education to children with autism and autism spectrum disorders.

(b) On or before August 31 of each year, the task force shall provide the General Assembly with a written explanation of the recommended legislative changes.

History. Acts 2009, No. 1272, § 1.

CHAPTER 4

LEGISLATIVE AUDIT

SUBCHAPTER.

1. STATE AUDITS. [REPEALED.]

2. LOCAL AUDITS. [REPEALED.]

SUBCHAPTER

3. ARKANSAS GOVERNMENTAL COMPLIANCE ACT.

4. DIVISION OF LEGISLATIVE AUDIT.

SUBCHAPTER 1 — STATE AUDITS

SECTION.

10-4-101 — 10-4-119. [Repealed.]

Effective Dates. Acts 2005, No. 906, § 3: Mar. 16, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; that public disclosure of unsubstantiated allegations do not serve a public purpose and may cause irreparable harm to innocent individuals and public employees; and that this act is immediately necessary to prevent unnecessary and unintended harm. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2201, § 12: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Legislative Joint Auditing Committee and the Division of Legislative Audit provide essential auditing and investigative ser-

vices to the General Assembly and the State of Arkansas; that to avoid confusion, the General Assembly finds it is necessary to combine the Arkansas Code provisions concerning the Division of Legislative Audit and the local audit section of the division in one Arkansas Code chapter; that to avoid certain undue hardships on public entities of the state, it is also necessary for the General Assembly to provide a basis of financial statement presentation for certain public entities; that the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; and that this act is immediately necessary because the General Assembly finds that the public disclosure of such unsubstantiated allegations do not serve a public purpose and may cause irreparable harm to innocent individuals and public employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-4-101 — 10-4-119. [Repealed.]

Publisher's Notes. This subchapter, concerning the Division of Legislative Audit and the Legislative Auditor, was repealed by Acts 2005, No. 2201, § 11. The

subchapter was derived from the following sources:

10-4-101. Acts 1955, No. 105, § 8; A.S.A. 1947, § 13-1501.

10-4-102. Acts 1955, No. 105, §§ 9, 17, 18; A.S.A. 1947, §§ 13-1502, 13-1510, 13-1511.

10-4-103. Acts 1955, No. 105, §§ 9, 11; A.S.A. 1947, §§ 13-1502, 13-1504.

10-4-104. Acts 1955, No. 105, § 11; A.S.A. 1947, § 13-1504.

10-4-105. Acts 1955, No. 105, §§ 10, 11; A.S.A. 1947, §§ 13-1503, 13-1504.

10-4-106. Acts 1955, No. 105, §§ 12, 16; 1983, No. 553, § 1; 1985, No. 258, § 4; A.S.A. 1947, §§ 13-1505, 13-1509; Acts 1987, No. 358, § 4; 1989, No. 580, § 1; 1989 (1st Ex. Sess.), No. 146, § 4.

10-4-107. Acts 1955, No. 105, § 16; A.S.A. 1947, § 13-1509.

10-4-108. Acts 1955, No. 105, § 17; A.S.A. 1947, § 13-1510.

10-4-109. Acts 1955, No. 105, § 13; A.S.A. 1947, § 13-1506.

10-4-110. Acts 1955, No. 105, § 13; A.S.A. 1947, § 13-1506.

10-4-111. Acts 1955, No. 105, § 15; 1973, No. 96, § 1; A.S.A. 1947, § 13-1508; Acts 1993, No. 179, § 1; 2001, No. 1038, § 2; 2003, No. 1473, § 20.

10-4-112. Acts 1955, No. 105, § 20; A.S.A. 1947, § 13-1513.

10-4-113. Acts 1955, No. 105, § 22; A.S.A. 1947, § 13-1515.

10-4-114. Acts 1955, No. 105, § 19; 1975, No. 928, § 5; A.S.A. 1947, § 13-1512.

10-4-115. Acts 1955, No. 105, § 14; A.S.A. 1947, § 13-1507; Acts 1987, No. 436, §§ 1-3; 1987, No. 505, §§ 1-3.

10-4-116. Acts 1955, No. 105, § 21; A.S.A. 1947, § 13-1514.

10-4-117. Acts 1983, No. 449, §§ 1-3; 1983, No. 502, §§ 1-3; A.S.A. 1947, §§ 13-1525 — 13-1527.

10-4-118. Acts 1981, No. 221, § 1; 1981, No. 465, § 1; A.S.A. 1947, § 13-1524.

10-4-119. Acts 1987, No. 370, § 1; 1991, No. 247, § 1.

Sections 10-4-111 and 10-4-115 were also amended by Acts 2005, No. 1165, § 1 and No. 906, § 1 respectively, which were subsequently subject to this repeal.

Acts 2005, No. 906, § 1, effective March 16, 2005 amended § 10-4-115(c)(2) as follows: "(2) After any audit report has been presented to the Legislative Joint Auditing Committee members, that audit report and copies of any documents contained in the working papers of the division shall be open to public inspection, except:

"(A) Documents specifically exempted from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.;

"(B) Unsubstantiated allegations obtained in complying with the provisions of the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 or other professional guidelines regarding the detection of fraud; and

"(C) Documents which disclose auditing procedures and techniques as defined in subdivision (c)(3) of this section."

SUBCHAPTER 2 — LOCAL AUDITS

SECTION.

10-4-201 — 10-4-219. [Repealed.]

Effective Dates. Acts 2005, No. 424, § 2: Mar. 2, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act are of critical importance to preserve the efficient operations of the Division of Legislative Audit and provide the flexibility needed to supply the General Assembly and the Legislative Joint Auditing Committee information vital and necessary to fulfill their constitutional and statutory mandates. Therefore, an emergency is declared to exist and this act being immedi-

ately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 906, § 3: Mar. 16, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Ameri-

can Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; that public disclosure of unsubstantiated allegations do not serve a public purpose and may cause irreparable harm to innocent individuals and public employees; and that this act is immediately necessary to prevent unnecessary and unintended harm. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1444, § 2: Mar. 31, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Statement No. 34 of the Governmental Accounting Standards Board, 'Basic Financial Statements — and Management's Discussion and Analysis — for State and Local Governments', places undue burdens on many school districts within the State of Arkansas; that the school districts in the State of Arkansas already face many pressures and requirements regarding accountability and that another basis of financial statement presentation will meet the needs of the General Assembly, the Department of Education, the school districts, and the people of the State of Arkansas; and that this act is immediately necessary to assist school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1524, § 2: Mar. 31, 2005. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that Statement No. 34 of the Governmental Accounting Standards Board, 'Basic Financial Statements — and Management's Discussion and Analysis — for State and Local Governments', places an undue burden on the prosecuting attorneys within the State of Arkansas; that prosecuting attorneys in the State of Arkansas already face many pressures and requirements and do not have adequate personnel to prepare financial statements as required by Statement No. 34, and another basis of financial statement presentation will meet the needs of the General Assembly, the Department of Education, the school districts, and the people of the State of Arkansas; and that this act is immediately necessary to assist prosecuting attorneys. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 2201, § 12: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Legislative Joint Auditing Committee and the Division of Legislative Audit provide essential auditing and investigative services to the General Assembly and the State of Arkansas; that to avoid confusion, the General Assembly finds it is necessary to combine the Arkansas Code provisions concerning the Division of Legislative Audit and the local audit section of the division in one Arkansas Code chapter; that to avoid certain undue hardships on public entities of the state, it is also necessary for the General Assembly to provide a basis of financial statement presentation for certain public entities; that the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; and that this act is immediately necessary because the General Assembly finds that the public disclosure

of such unsubstantiated allegations do not serve a public purpose and may cause irreparable harm to innocent individuals and public employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The

date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

10-4-201 — 10-4-219. [Repealed.]

Publisher's Notes. This subchapter, concerning local audits, was repealed by Acts 2005, No. 2201, § 11. The subchapter was derived from the following sources:

10-4-201. Acts 1969, No. 286, § 2; A.S.A. 1947, § 13-1517.

10-4-202. Acts 1973, No. 191, § 1; A.S.A. 1947, § 13-209; Acts 1993, No. 484, § 1; 1993, No. 1276, § 2; 1999, No. 636, § 1.

10-4-203. Acts 1973, No. 191, § 1; A.S.A. 1947, § 13-209.

10-4-204. Acts 1973, No. 191, § 1; A.S.A. 1947, § 13-209.

10-4-205. Acts 1973, No. 191, § 1; A.S.A. 1947, § 13-209; Acts 1987, No. 436, §§ 1-3; 1987, No. 505, §§ 1-3.

10-4-206. Acts 1969, No. 619, §§ 5, 6; 1973, No. 191, § 1; A.S.A. 1947, § 13-209; Acts 1987, No. 207, § 1.

10-4-207. Acts 1961, No. 183, § 1; A.S.A. 1947, § 13-211.

10-4-208. Acts 1985, No. 29, §§ 1, 2; 1985, No. 66, §§ 1, 2; A.S.A. 1947, §§ 13-1528, 13-1529; Acts 1991, No. 4, § 1.

10-4-209. Acts 1985, No. 960, § 1; A.S.A. 1947, § 24-106.1.

10-4-210. Acts 1977, No. 248, § 1; A.S.A. 1947, § 13-1518.

10-4-211. Acts 1977, No. 248, § 2; A.S.A. 1947, § 13-1519.

10-4-212. Acts 1977, No. 248, § 3; A.S.A. 1947, § 13-1520.

10-4-213. Acts 1977, No. 248, §§ 3, 4; A.S.A. 1947, §§ 13-1520, 13-1521.

10-4-214. Acts 1977, No. 832, § 1; A.S.A. 1947, § 13-1522.1.

10-4-215. Acts 1977, No. 537, § 1; A.S.A. 1947, § 13-1523.

10-4-216. Acts 1973, No. 191, § 1; A.S.A. 1947, § 13-209.

10-4-217. Acts 1973, No. 191, § 1; 1975, No. 332, § 1; A.S.A. 1947, § 13-209.

10-4-218. Acts 1959, No. 422, § 10; A.S.A. 1947, § 13-210.

10-4-219. Acts 1991, No. 187, § 1.

Section 10-4-202 was also amended by Acts 2005, No. 424, § 1, effective March 2, 2005, to read as follows: "10-4-202. Audits authorized — Independent audits.

"(a) The Legislative Auditor has the power and duty, acting through his or her duly authorized employees, to conduct audits of the records and accounts of all offices, officials, or employees of counties, municipalities, school districts, county school boards, and educational cooperatives.

"(b) Nothing contained in subsection (a) of this section shall be so construed as to abridge the right of any school district, or any educational cooperative to choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct these audits and present financial statements in accordance with:

"(1) Regulations prescribed by the:

"(A) State Board of Education; or

"(B) Department of Education; or, in the alternative

"(2) The guidelines and format of the:

"(A) Government Accounting Standards Board;

"(B) American Institute of Certified Public Accountants; and

"(C) United States Government Accountability Office.

"(c)(1) Nothing contained in subsection (a) of this section shall be construed to abridge the right of a municipality to choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct audits and present financial statements as outlined in this subsection.

"(2)(A) The financial statements shall be presented on a fund basis with, as a minimum:

“(i) The general fund and the street or road fund presented separately; with

“(ii) All other funds included in the audit presented in the aggregate.

“(B) The financial statements shall consist of:

“(i) A balance sheet;

“(ii) A statement of revenues (receipts); expenditures (disbursements), and changes in fund equity (balance);

“(iii) A comparison of the final adopted budget to the actual expenditures (disbursements) for the general fund and street or road fund of the entity; and

“(iv) Notes to the financial statements.

“(C) The report shall include as supplemental information a schedule of general fixed assets, including land, buildings, and equipment.

“(3) In the alternative, upon the adoption of an annual resolution by the governing body of the municipality or county, the audit may be performed in accordance with guidelines and format prescribed by the Government Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office.

“(4) For the purposes of this section, an audit shall be planned, conducted, and the results of the work reported in accordance with generally accepted government auditing standards, if applicable.

“(d)(1) As an alternative to an audit, the Legislative Auditor may conduct an agreed-upon procedures engagement of the records and accounts of all municipal or county offices, officials, or employees.

“(2) Unless otherwise provided by law, the governing body of a municipality may choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct agreed-upon procedures engagements.

“(3) For the purposes of this section, agreed-upon procedures engagements shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants and subject to the minimum procedures prescribed by the Legislative Auditor.

“(e) The Legislative Joint Auditing Committee shall monitor the reports prescribed in this section to ensure that the reports meet the needs of the General Assembly, the public entities, and the general public.”

Section 10-4-205(a)(2) was also amended by Acts 2005, No. 906, § 2, effective March 16, 2005, to read as follows: “(2) After any audit report has been presented to the Legislative Joint Auditing Committee members, that audit report and copies of any documents contained in the working papers of the Division of Legislative Audit shall be open to public inspection, except:

“(A) Documents specifically exempted from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.;

“(B) Unsubstantiated allegations obtained in complying with the provisions of the Statement on Auditing Standards Number 99 of the American Institute of Certified Public Accountants or other professional guidelines regarding the detection of fraud; and

“(C) Documents which disclose auditing procedures and techniques as defined in subdivision (a)(3) of this section.”

Section 10-4-208 was also amended by Acts 2005, No. 1444, § 1, effective March 31, 2005, to read as follows: “10-4-208. Audit of schools.

“(a) As used in this section:

“(1) ‘Public funds’ means any funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by or for, or passed through a school; and

“(2) ‘School’ means any public school district, charter school, educational cooperative, or publicly supported entity having supervision over public educational entities.

“(b)(1) Except as provided in subdivision (b)(2)(A) of this section, the Legislative Auditor shall conduct audits of all schools and any transactions regarding public funds of the schools.

“(2)(A)(i) However, any school may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct the annual financial audits in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

“(ii) The report shall include a report on internal control over financial reporting

and on compliance and other matters based on an audit of financial statements performed in accordance with governmental auditing standards.

“(B) Every report of an annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance to the board.

“(C) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any school.

“(c) REGULATORY BASIS OF PRESENTATION.

(1) For school financial audits, the financial statements shall be presented on a fund basis format with, as a minimum, the general fund and the special revenue fund presented separately and all other funds included in the audit presented in the aggregate.

“(2) The financial statements shall consist of the following:

“(A) A balance sheet;

“(B) A statement of revenues, expenditures, and changes in fund balances;

“(C) A comparison of the final adopted budget to the actual expenditures for the general fund of the entity and the special revenue fund of the entity; and

“(D) Notes to the financial statements.

“(3) The report shall include as supplemental information a schedule of capital assets, including land, buildings, and equipment.

“(4) The State Board of Education shall promulgate the rules necessary to administer the regulatory basis of presentation provided in this subsection.

“(d) ALTERNATIVE BASIS OF PRESENTATION.

(1) As an alternative to the presentation prescribed in subsection (c) of this section, the governing body of a school may require its annual financial audit to be performed and financial statements presented in accordance with the guidelines prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the Government Accountability Office, if applicable.

“(2) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with governmental auditing standards.

“(e)(1) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly

scheduled meeting following receipt of the audit report if the audit report is received by the board or governing body prior to ten (10) days before the regularly scheduled meeting.

“(2) If the audit report is received by the board or governing body within ten (10) days before a regularly scheduled meeting, the audit report may be reviewed at the next regularly scheduled meeting after the ten-day period.

“(3) The board or governing body shall take appropriate action relating to each finding and recommendation contained in the audit report.

“(4) The minutes of the board or governing body shall document the review of the findings and recommendations and the action taken by the board or governing body.”

Section 10-4-209 was also amended by Acts 2005, No. 1524, § 1, effective March 31, 2005, to read as follows: “10-4-209. Prosecuting attorneys — Accounting system — Audit.

“(a) The Division of Legislative Audit shall assist the prosecuting attorneys and their deputies in developing an accounting system for funds received or disbursed by virtue of their office.

“(b) The Legislative Auditor shall conduct audits of prosecuting attorneys in the State of Arkansas and any transaction regarding public funds of prosecuting attorneys.

“(c) REGULATORY BASIS OF PRESENTATION.

“(1) For prosecuting attorney financial audits, the financial statements shall be presented on a fund basis format with, as a minimum, the general fund presented separately and all other funds included in the audit presented in the aggregate.

“(2) The financial statements shall consist of the following:

“(A) A balance sheet;

“(B) A statement of revenues (receipts), expenditures (disbursements), and changes in fund equity (balance); and

“(C) Notes to the financial statements.

“(3) The report shall include as supplemental information a schedule of capital assets, including land, buildings, and equipment.”

Sections 10-4-213 and 10-4-217 were also amended by Acts 2005, No. 1165, §§ 2 and 3, effective August 12, 2005. The amended sections were subsequently sub-

ject to repeal by Acts 2005, No. 2201, § 11, effective April 13, 2005.

SUBCHAPTER 3 — ARKANSAS GOVERNMENTAL COMPLIANCE ACT

SECTION.

10-4-301. Title.
10-4-302. Definition.
10-4-303. Penalty.
10-4-304. Laws within purview of subchapter.
10-4-305. Notice of deficiencies.
10-4-306. Compliance with fiscal man-

SECTION.

agement laws — Review — Affidavit.
10-4-307. Invitation to appear.
10-4-308. Grace period.
10-4-309. Enforcement by prosecuting attorney.

Cross References. Legislative Joint Auditing Committee, § 10-3-401 et seq.

Preambles. Acts 1979, No. 111 contained a preamble which read: "Whereas, the Legislative Joint Auditing Committee is charged with the responsibility of reviewing the audits prepared by the Division of Legislative Audit on the following governmental entities — counties, municipalities and school districts; and

"Whereas, there is substantial compliance in most areas of the fiscal operations of these governmental units but there are certain continuing deficiencies that have been denoted by these audit reports to be in noncompliance with the statutory laws of the State of Arkansas; and

"Whereas, the Legislative Joint Auditing Committee believes that the public interest is better served by compliance with the laws of the State of Arkansas with said compliance benefiting not only

the public officials and the auditing staff but should result in additional benefits in the expenditure of public funds; and

"Whereas, there is no acceptable compliance mechanism now provided for by law for the enforcement of fiscal management laws in the State of Arkansas;

"Now, therefore...."

Effective Dates. Acts 1979, No. 111, § 10: Feb. 13, 1979. Emergency clause provided: "It is hereby found and determined by the 72nd General Assembly that the Legislative Joint Auditing Committee should immediately implement this compliance procedure provided herein and that such compliance by all interested parties will accrue to the benefit of the taxpayers of the State of Arkansas; therefore, an emergency is hereby declared to exist and it is necessary for the public peace, health and safety that this act be effective from and after the date of its passage and approval."

10-4-301. Title.

This subchapter shall be known as the "Arkansas Governmental Compliance Act".

History. Acts 1979, No. 111, § 1; A.S.A. 1947, § 4-710; Acts 1989, No. 47, § 1.

10-4-302. Definition.

As used in this subchapter, unless the context otherwise requires, "public servant" means:

(1) Any officer or employee of this state or of any political subdivision thereof;

(2) Any person exercising the functions of any such officer or employee;

(3) Any person acting as an advisor, consultant, or otherwise in performing any governmental function, but not including witnesses; or

(4) Any person elected, appointed, or otherwise designated to become a public servant, although not yet occupying that position.

History. Acts 1979, No. 111, § 1; A.S.A. 1947, § 4-710.

10-4-303. Penalty.

Any public servant who does not comply with the provisions of this subchapter and the laws listed in § 10-4-304 commits the offense of noncompliance with the first offense being a Class C misdemeanor, the second offense a Class B misdemeanor, and the third offense a Class A misdemeanor. This penalty provision does not repeal any other penalty provision provided by the laws included in § 10-4-304.

History. Acts 1979, No. 111, § 8; A.S.A. meanors, § 5-4-201 et seq. 1947, § 4-717. Imprisonment for misdemeanors, § 5-

Cross References. Fines for misde- 4-401 et seq.

10-4-304. Laws within purview of subchapter.

The fiscal management laws coming within the purview of this subchapter are as follows:

- (1) Sections 14-25-101 — 14-25-115;
- (2) Sections 14-22-101 — 14-22-115;
- (3) Section 14-16-105(b)-(e);
- (4) Section 26-39-201;
- (5) Section 26-35-1001 [repealed];
- (6) Section 26-28-111(a);
- (7) Section 14-14-101 et seq.;
- (8) Sections 14-59-101 — 14-59-116;
- (9) Sections 16-10-201 — 16-10-210;
- (10) Section 22-9-203(a) and (b);
- (11) Section 16-92-110 [repealed];
- (12) Sections 26-79-104(b) and 27-70-207(c);
- (13) Arkansas Constitution, Amendment 13 [repealed];
- (14) Sections 14-237-101 — 14-237-113;
- (15) Sections 6-13-618, 6-17-910 [repealed], 6-17-912, 6-17-913, 6-17-918, and 6-17-919;
- (16) Sections 19-1-401 — 19-1-405;
- (17) Sections 19-4-101 — 19-4-2004;
- (18) Sections 19-11-201 — 19-11-259;
- (19) Sections 21-4-201 — 21-4-213;
- (20) Sections 21-1-103 and 21-5-101 — 21-5-104;
- (21) Sections 21-5-201 — 21-5-218;
- (22) Sections 6-20-101 [repealed], 6-20-102 — 6-20-1515; and
- (23) Sections 6-21-101 — 6-21-608.

History. Acts 1979, No. 111, § 2; A.S.A. 1947, § 4-711; Acts 1989, No. 47, § 2; 2011, No. 752, § 2.

A.C.R.C. Notes. The bond provisions of §§ 6-13-618 and 6-17-918, referred to in this section, may be affected by § 21-2-201 et seq., regarding a blanket bond program for school district officers and employees, or by § 21-2-701 et seq., regarding blanket performance bond coverage for all public employees.

Section 19-1-403, referred to in this section, may be affected by the blanket bond provisions of § 21-2-401 et seq., for county officers and employees, § 21-2-301 et seq. [repealed], for municipal officers and em-

ployees, § 21-2-201 et seq. [repealed], for school district officers and employees, or the blanket performance bond coverage provisions of § 21-2-701 et seq., for all public employees. See those sections and notes thereto.

Publisher's Notes. Pursuant to Ark. Const. Amend. 62, § 11, the provisions of Ark. Const. Amend. 13, referred to in this section, are repealed insofar as they are inconsistent with the provisions of Ark. Const. Amend. 62.

Amendments. The 2011 amendment substituted "27-70-207(c)" for "27-70-207(b)" in (12).

10-4-305. Notice of deficiencies.

(a) The Legislative Joint Auditing Committee shall establish the following procedure for giving written notice to a public servant of deficiencies in the operation or performance of the public servant's official duties as provided by the laws of the State of Arkansas in the fiscal management of the public servant's duties.

(b)(1) The cochairs of the Legislative Joint Auditing Committee shall give notice by certified letter to the public servant with a provision for response to the letter thirty (30) days from the date of the receipt of the letter by the public servant.

(2) The letter shall contain a summary of the audit findings of noncompliance denoted in the audit report prepared by the staff of the Legislative Joint Auditing Committee on the operations of the public servant's office, duties, and responsibilities as provided by the laws named in § 10-4-304.

(3) The notice shall offer the assistance of the Legislative Joint Auditing Committee to the public servant on actions necessary to effect compliance with the laws named in § 10-4-304.

(c)(1) The Legislative Joint Auditing Committee may require a municipal official who is responsible for any deficiencies under subsection (a) of this section to attend relevant training courses provided by the Arkansas Municipal League, the Division of Legislative Audit, or other appropriate training program.

(2)(A) Reimbursement for the training is authorized for expenses at the rate authorized for state employees and for mileage at the rate established in the state travel regulations for state employees while traveling within the state in the performance of their official duties.

(B) Reimbursement for the training is subject to specific appropriation for that purpose.

History. Acts 1979, No. 111, § 2; A.S.A. 1947, § 4-711; Acts 2011, No. 611, § 1.

Amendments. The 2011 amendment, in (a), deleted "the purpose of" preceding

"giving" and substituted "the public servant's" for "their"; substituted "The Cochairs of the Legislative Joint Auditing Committee shall give notice by certified

letter to the public servant” for “Notice to the public servant shall be given by certified letter from the cochairs of the Committee” in (b)(1); inserted “Legislative Joint Auditing” in (b)(2) and (3); deleted “of the State of Arkansas” at the end of (b)(2); and added (c).

10-4-306. Compliance with fiscal management laws — Review — Affidavit.

- (a) After the public servant takes the necessary action for compliance with fiscal management laws of the State of Arkansas, he or she shall request the staff of the Legislative Joint Auditing Committee to review his or her corrective actions and to determine whether he or she is now in compliance with the above-named laws of the State of Arkansas.
- (b) If it is determined that he or she is in compliance, then this public servant should denote his or her compliance by signing a verified affidavit which contains a summary of the areas where deficiencies in the fiscal management of his or her responsibilities and duties were noted and all corrective actions that were taken or will be taken to effect compliance.

History. Acts 1979, No. 111, § 3; A.S.A. 1947, § 4-712.

10-4-307. Invitation to appear.

- (a) If the public servant fails to obtain compliance as to the laws contained in § 10-4-304 or to respond within the time limit contained in § 10-4-305, then the public servant shall be invited or subpoenaed to appear before the Legislative Joint Auditing Committee to show cause why the public servant has not complied with the above-named fiscal management laws of the State of Arkansas.
- (b)(1) If the public servant is invited and the public servant fails to respond to the Legislative Joint Auditing Committee’s invitation provided above, then a second invitation shall be issued by the Legislative Joint Auditing Committee in the form of a legal notice published in the newspaper serving the respective county of the public servant. The legal notice of invitation shall be published at least one (1) time each week for three (3) consecutive weeks prior to the date of the Legislative Joint Auditing Committee meeting to which the public servant has been invited.
- (2) The legal notice shall be in the following form:

“State of Arkansas
Legislative Joint Auditing Committee
COUNTY OF
STATE OF ARKANSAS

INVITATION

THE People of the State of Arkansas
TO
.....

.....
GREETING:

You are invited to appear in Room, State Capitol Building, Little Rock, Arkansas, before the Legislative Joint Auditing Committee on the day of, 20...., at, and discuss with the Committee your respective audit report, prepared by the staff of the Committee, and if there is any additional evidence you would like to produce at this meeting, that is now in your custody or the custody of some other individual, you are requested to furnish the Committee's staff with this information at least seven (7) days prior to the date of your appearance.

Witness my hand, as and the seal thereof, on this day of, 20....

.....
 Legislative Joint Auditing Committee"

History. Acts 1979, No. 111, § 4; A.S.A. 1947, § 4-713.

10-4-308. Grace period.

After the public servant has appeared before the Legislative Joint Auditing Committee, as provided by § 10-4-307, the Legislative Joint Auditing Committee may allow a maximum period of thirty (30) days from the date of his or her appearance before the Legislative Joint Auditing Committee for the public servant to effect compliance.

History. Acts 1979, No. 111, § 5; A.S.A. 1947, § 4-714.

10-4-309. Enforcement by prosecuting attorney.

(a)(1) In such cases when compliance has not been obtained by the public servant within the above-given time periods, the Legislative Joint Auditing Committee shall notify the respective prosecuting attorney of each public servant and the prosecuting attorney shall conduct an investigation into the transactions coming within the fiscal management laws contained in § 10-4-304 as to the public servant's compliance with the laws as they related to the public servant's functions within a state agency, institution, department, board, commission, bureau, or within a county, municipality, or school district.

(2) The prosecuting attorney shall report back to the Legislative Joint Auditing Committee within forty-five (45) days from the date of the matter's being referred to him or her by the Legislative Joint Auditing Committee.

(b) The prosecuting attorney commits the offense of noncompliance if after being duly advised of the given facts of a situation that relate to a charge of noncompliance against another public servant he or she fails

or omits to perform the duty of conducting an investigation required of him or her by this section.

History. Acts 1979, No. 111, §§ 6, 7; A.S.A. 1947, §§ 4-715, 4-716; Acts 1989, No. 47, § 3.

SUBCHAPTER 4 — DIVISION OF LEGISLATIVE AUDIT

SECTION.

- 10-4-401. Division of Legislative Audit — Creation.
- 10-4-402. Definitions.
- 10-4-403. Authority of Legislative Auditor.
- 10-4-404. Qualifications of Legislative Auditor.
- 10-4-405. Employment and removal of Legislative Auditor.
- 10-4-406. Written appointment and oath of Legislative Auditor.
- 10-4-407. Duties of Legislative Auditor.
- 10-4-408. Disbursing officer — Payment of salaries.
- 10-4-409. Personnel.
- 10-4-410. Audit costs.
- 10-4-411. Audits of entities of the state.
- 10-4-412. Audits of counties and municipalities.
- 10-4-413. Audits of schools.
- 10-4-414. Audits of prosecuting attorneys.
- 10-4-415. Monitoring of reports by the

SECTION.

- Legislative Joint Auditing Committee.
- 10-4-416. Access to records.
- 10-4-417. Presentation and filing of audit reports.
- 10-4-418. Review of audit report by governing body.
- 10-4-419. Report of improper or illegal practices.
- 10-4-420. Testimony before courts.
- 10-4-421. Subpoenas — Witnesses — Penalties for failure to appear — Perjury.
- 10-4-422. Records — Public inspection.
- 10-4-423. Seal.
- 10-4-424. Audit of data processing operations.
- 10-4-425. Format of private audit reports.
- 10-4-426. Continuing professional education courses.
- 10-4-427. Claims against sureties.

A.C.R.C. Notes. Acts 2011, No. 850, § 5, provided: “FUNDS. In the event the Division of Legislative Audit of the Legislative Joint Auditing Committee should receive any funds in connection with performing their duties as prescribed by the Arkansas Scholarship Lottery Act, such funds shall be deposited into the State Central Services Fund to be utilized solely by the Division of Legislative Audit of the Legislative Joint Auditing Committee in performing such duties.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

Acts 2012, No. 198, § 5, provided: “FUNDS. In the event the Division of Legislative Audit of the Legislative Joint Auditing Committee should receive any funds in connection with performing their duties as prescribed by the Arkansas

Scholarship Lottery Act, such funds shall be deposited into the State Central Services Fund to be utilized solely by the Division of Legislative Audit of the Legislative Joint Auditing Committee in performing such duties.

“The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013.”

Effective Dates. Acts 2005, No. 2201, § 12: Apr. 13, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Legislative Joint Auditing Committee and the Division of Legislative Audit provide essential auditing and investigative services to the General Assembly and the State of Arkansas; that to avoid confusion, the General Assembly finds it is necessary to combine the Arkansas Code provisions concerning the Divi-

sion of Legislative Audit and the local audit section of the division in one Arkansas Code chapter; that to avoid certain undue hardships on public entities of the state, it is also necessary for the General Assembly to provide a basis of financial statement presentation for certain public entities; that the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 regarding the detection of fraud requires auditors to document unsubstantiated allegations of fraud in their working papers; and that this act is immediately necessary because the General Assembly finds that the public disclosure of such unsubstantiated allegations do not serve a public purpose and may cause irreparable harm to innocent individuals and public employees. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 72 Am. Jur. 2d, States, § 65.

C.J.S. 81A C.J.S., States, § 134.

Ark. L. Rev. The Executive Branch — Fusing the Division of Authority, 24 Ark. L. Rev. 182.

10-4-401. Division of Legislative Audit — Creation.

(a) There is created under the authority of the General Assembly a Division of Legislative Audit.

(b) The division shall be headed by the Legislative Auditor, who shall be selected by the Legislative Joint Auditing Committee.

History. Acts 2005, No. 2201, § 7.

financial management system for counties, § 14-21-101.

Cross References. Comprehensive fi-

10-4-402. Definitions.

(a) As used in this subchapter:

(1) "Audit" means a financial audit, performance audit, information technology audit, review, report of agreed-upon procedures, compilation, examination, investigation, or other report or procedure approved

by the Legislative Joint Auditing Committee for an entity of the state or a political subdivision of the state;

(2) "Entity of the state" means the State of Arkansas as a whole or any department, institution of higher education, board, commission, agency, quasi-public organization, official, office, or employee, or any agency, instrumentality, or function thereof;

(3) "Financial audit" means a systematic examination of the financial statements of an entity and the related supporting evidence for the purpose of expressing an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with accounting principles generally accepted in the United States, another comprehensive basis of accounting, or a regulatory basis of presentation, as applicable;

(4) "Other funds" means any funds or assets held by a person, foundation, nonprofit corporation, or any other entity for the specific benefit of a particular entity or entities of the state or political subdivision of the state;

(5) "Political subdivision of the state" means any county, municipality, school, quasi-public organization, district, official, office, or employee, or any agency, instrumentality, or function thereof;

(6) "Public funds" means any funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by, or passed through an entity of the state or a political subdivision of the state; and

(7) "School" means any public school district, charter school, or education service cooperative, or any publicly supported entity having supervision over public educational entities.

(b) The definitions in this subchapter are limited to this subchapter only, and shall not be used or interpreted as applying to the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 2005, No. 2201, § 7; substituted "education service cooperative" for "educational cooperative" in 2007, No. 617, § 37.

Amendments. The 2007 amendment (a)(7).

10-4-403. Authority of Legislative Auditor.

(a) The Legislative Auditor has the authority to perform an audit of any entity of the state, political subdivision of the state, or transaction relating to public funds and to prepare a written report of the audit to the Legislative Joint Auditing Committee and to the entity being audited.

(b)(1) In addition, the Legislative Auditor has the authority to investigate documents, books, and records regarding receipt, expenditure, or disbursement of other funds if the Legislative Auditor determines, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the

state or a political subdivision of the state or to investigate misappropriation of other funds.

(2) Nothing in this section shall be construed as authorizing or permitting the release of information prohibited by law or not subject to public inspection under the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law. All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation, or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure. Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(c) The Legislative Auditor may conduct any audit or investigation that in his or her judgment is proper and necessary to carry out the purpose and intent of this subchapter or to assist the General Assembly in the proper discharge of its duties.

(d)(1) In conducting audits of entities of the state or political subdivisions of the state, the Legislative Auditor shall have access at all times to and have the authority to examine any record or documentation relating to transactions with these entities, regardless of the nature, custodian, or location of those records.

(2) However, in the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the Legislative Auditor must determine, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(e) The Legislative Auditor has the authority to require the aid and assistance of all officials, auditors, accountants, and other employees of each entity of the state or political subdivision of the state at all times in the inspection, examination, and audit of any books, accounts, transactions, financial statements, or any other pertinent records.

(f) In conducting audits of entities of the state or political subdivisions of the state or verifying transactions with the entities of the state or political subdivision of the state, and in the investigation of other funds, the Legislative Auditor has the authority to summon and issue subpoenas for the appearance of individuals or the production of documents or other records.

(g)(1) The Legislative Auditor may make specific recommendations to the Legislative Joint Auditing Committee and the General Assembly for the amendment of existing laws or the passage of new laws designed to improve the functioning of entities of the state and political subdivisions of the state to the end that more efficient service may be rendered and the cost of government reduced.

(2) The Legislative Auditor shall not include in his or her recommendations to the General Assembly any recommendations as to the

sources from which taxes shall be raised to meet the governmental expense.

History. Acts 2005, No. 2201, § 7.

10-4-404. Qualifications of Legislative Auditor.

(a) The Legislative Auditor shall be a licensed certified public accountant in the State of Arkansas with at least seven (7) years of government auditing experience prior to being appointed.

(b) At the time of appointment, the Legislative Auditor shall not be related in the second degree of consanguinity or affinity to any member of the General Assembly or a constitutional officer.

(c) The Legislative Auditor shall not serve in any ex officio capacity on any administrative board or commission or have any financial interest in the transactions of any entity of the state or political subdivision of the state, other than those financial interests that accrue as a result of being an employee of the state.

History. Acts 2005, No. 2201, § 7.

10-4-405. Employment and removal of Legislative Auditor.

(a) The Legislative Auditor shall be employed by a majority vote of the membership of the Legislative Joint Auditing Committee, and the name of the person selected shall be presented to each house of the General Assembly for confirmation by both houses if the General Assembly is in session at the time of the selection.

(b)(1) If the Legislative Auditor is selected while the General Assembly is not in session, he or she shall in all respects carry out the functions, powers, and duties as provided in this subchapter until the next regular session or fiscal session of the General Assembly.

(2)(A) During the next regular session or fiscal session of the General Assembly, the name of the person selected as Legislative Auditor shall be presented to both houses of the General Assembly for confirmation.

(B) Unless upon the presentation his or her selection is rejected, he or she shall in all respects continue to carry out the functions, powers, and duties as Legislative Auditor.

(c) When a vacancy in the position of Legislative Auditor exists, the position shall be filled by the Legislative Joint Auditing Committee by majority action of the Legislative Joint Auditing Committee membership, subject to approval of both houses of the General Assembly at its next regular session.

(d) The Legislative Auditor may be removed for cause at any time by a majority vote of the membership of the Legislative Joint Auditing Committee after a public hearing.

History. Acts 2005, No. 2201, § 7;
2009, No. 962, § 27.

Amendments. The 2009 amendment
inserted "session or fiscal" following "regu-

lar” in (b)(1); and substituted “regular Assembly” for “regular legislative session” session or fiscal session of the General in (b)(2)(A).

10-4-406. Written appointment and oath of Legislative Auditor.

(a) The cochairs of the Legislative Joint Auditing Committee, upon vote or approval of the majority of the membership of the Legislative Joint Auditing Committee, shall execute a written appointment of the person employed as the Legislative Auditor and cause the written appointment to be filed in the office of the Secretary of State.

(b) Upon appointment, the Legislative Auditor shall qualify by taking the constitutional oath.

History. Acts 2005, No. 2201, § 7.

10-4-407. Duties of Legislative Auditor.

The Legislative Auditor shall:

(1) Personally, or through the Legislative Auditor’s authorized assistants and employees, conduct audits of any entity of the state or political subdivision of the state now in existence or hereafter created;

(2) Make recommendations to the Legislative Joint Auditing Committee and respective entities regarding the:

(A) Improvement of the accounting systems used by any entity of the state or political subdivision of the state; or

(B) Proper installation and utilization of the accounting system;

(3) Call attention to any funds which, in his or her opinion, have not been expended in accordance with the law, appropriation, ordinance, regulation, or other legal requirement and shall make recommendations to the Legislative Joint Auditing Committee, the General Assembly, and other applicable governing bodies as to the manner or form of appropriations which will avoid any improper expenditure of money in the future;

(4) Report to the proper authorities apparent improper or illegal practices contained in audit reports;

(5) Provide technical assistance in establishing uniform systems of recordkeeping within the entities of the state and political subdivisions of the state insofar as it is practical to do so and not inconsistent with law or professional standards; and

(6) Require, on forms prescribed or made available, the filing with the Division of Legislative Audit of financial reports at such times as the Legislative Auditor deems advisable.

History. Acts 2005, No. 2201, § 7.

10-4-408. Disbursing officer — Payment of salaries.

(a)(1) The Legislative Auditor is designated as disbursing officer for the Division of Legislative Audit.

(2) All vouchers issued in the payment of salaries and expenses incurred in the operations of the division shall be approved by the Legislative Auditor or the Legislative Auditor's authorized designee or designees before the salaries and expenses are paid.

(b) In case a vacancy exists in the position of Legislative Auditor, the Legislative Joint Auditing Committee may designate a disbursing agent or agents for the division who shall serve until the position of Legislative Auditor is filled.

(c) The salary of the Legislative Auditor and the other employees of the division shall be paid in the same manner and through the same procedure used for the payment of salaries of other state employees.

History. Acts 2005, No. 2201, § 7.

A.C.R.C. Notes. Acts 2011, No. 850, § 4, provided: "SALARIES. Employees of the Division of Legislative Audit shall be eligible for cost-of-living increases on July 1, in an amount equal to that granted to all other state agency, board, commission or institution of higher education employees on those dates. Any additional adjustments in annual salary rates for Division employees, labor market adjustments, merit pay adjustments or employee retention or recruitment requirements shall be made at the discretion of the Legislative Auditor. In addition, the Legislative Auditor may implement a merit program to reward employees of the Division for exceptional service. The plan shall be approved by the Legislative Joint Auditing Committee prior to its implementation. In order that exceptionally well-qualified personnel may be recruited and retained, the Division of Legislative Audit may exceed the maximum salary levels by no more than twenty percent (20%) for no more than one-third ($\frac{1}{3}$) of the positions authorized in the appropriation act after receiving approval from the Arkansas Legislative Council or Joint Budget Committee. Salary payments in accordance with this section shall not be restricted to maximum amounts authorized by law.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2012, No. 198, § 4, provided: "SALARIES. Employees of the Division of Legislative Audit shall be eligible for cost-of-living increases on July 1, in an amount equal to that granted to all other state agency, board, commission or institution of higher education employees on those dates. Any additional adjustments in annual salary rates for Division employees, labor market adjustments, merit pay adjustments or employee retention or recruitment requirements shall be made at the discretion of the Legislative Auditor. In addition, the Legislative Auditor may implement a merit program to reward employees of the Division for exceptional service. The plan shall be approved by the Legislative Joint Auditing Committee prior to its implementation. In order that exceptionally well-qualified personnel may be recruited and retained, the Division of Legislative Audit may exceed the maximum salary levels by no more than twenty percent (20%) for no more than one-third ($\frac{1}{3}$) of the positions authorized in the appropriation act after receiving approval from the Arkansas Legislative Council or Joint Budget Committee. Salary payments in accordance with this section shall not be restricted to maximum amounts authorized by law.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

10-4-409. Personnel.

(a) Subject to a biennial appropriation therefor, all employees of the Division of Legislative Audit shall be selected and appointed by the Legislative Auditor.

(b)(1) The Legislative Auditor shall be free to select the most efficient personnel available for each position in the division, to the end that he

or she may render to the members of the General Assembly that service which the members have a right to expect.

(2) The Legislative Auditor may conduct such professional examination as he or she may deem expedient in determining the qualifications of the persons whom he or she contemplates placing on his or her staff.

(c)(1) No person related to any member of the General Assembly or to the Legislative Auditor in the first degree of consanguinity or affinity may be employed on the staff of the division.

(2) However, subdivision (c)(1) of this section does not apply if an individual is initially employed with the division before his or her relative is elected as a member of the General Assembly.

(d)(1) It is the intention and desire of the General Assembly to free the Legislative Auditor and his or her staff from partisan politics.

(2) It is declared to be against public policy for any member of the General Assembly or any official or employee of the entities of the state or political subdivisions of the state to recommend or suggest the appointment of any person to a position on the staff of the Legislative Auditor.

History. Acts 2005, No. 2201, § 7.

RESEARCH REFERENCES

Ark. L. Rev. Documentary Evidence —
Arkansas, 15 Ark. L. Rev. 79.

10-4-410. Audit costs.

(a)(1) The Legislative Auditor shall cause to be maintained a sufficient accounting of the audit costs incurred by the Division of Legislative Audit in auditing entities of the state and political subdivisions of the state.

(2) The audit costs shall provide a basis for determining a reasonable reimbursement from entities of the state and political subdivisions of the state for the cost of auditing federal funds received by these entities.

(b)(1) The administrative cost of auditing political subdivisions of the state shall be paid from the Ad Valorem Tax Fund as prescribed by § 19-5-906.

(2) If these taxes or any part thereof are no longer collected or deposited into the State Treasury or if there is a diminution in these taxes, then the operating cost of auditing the political subdivisions of the state incurred by the Division of Legislative Audit shall be paid from other moneys deposited into the General Revenue Fund Account of the State Apportionment Fund.

(3) As soon as practical after the close of each fiscal year, the Legislative Auditor shall certify to the Chief Fiscal Officer of the State the amount of funds expended during the fiscal year just ending which is to be allocated to the state audit function and to the local audit function of the Division of Legislative Audit.

(4) The Chief Fiscal Officer of the State shall utilize this certification in determining those expenses which are eligible to be reimbursed from the Ad Valorem Tax Fund.

(c) If it is determined by the Legislative Joint Auditing Committee that the reimbursement for the auditing of entities of the state is appropriate, the Legislative Auditor and the Director of the Department of Finance and Administration shall develop guidelines for effecting proper budgetary and accounting procedures for the reimbursements.

History. Acts 2005, No. 2201, § 7.

10-4-411. Audits of entities of the state.

(a) Except as provided in subdivision (b)(1) of this section, the Legislative Auditor shall audit entities of the state.

(b)(1)(A) However, any licensing board or with the approval of the Legislative Joint Auditing Committee any other entity of the state may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct the entity's annual financial audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

(B) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(2) If an annual financial audit of an entity of the state is deemed by the Legislative Auditor as necessary for the audit of the comprehensive annual financial report of the State of Arkansas, then any contract with a private certified public accountant for the entity's annual financial audit shall include provisions requiring the annual financial audit to be completed and filed with the Division of Legislative Audit by a date determined by the Legislative Auditor.

(3) All reports of the annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report to the applicable governing body.

(4) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any entity of the state.

History. Acts 2005, No. 2201, § 7.

A.C.R.C. Notes. Acts 2011, No. 949, § 27, provided: "SELECTION OF AUDITOR. The Legislative Auditor and Chief Fiscal Officer of the State shall jointly select the independent auditor to audit the Comprehensive Annual Financial Report for the period ending June 30, 2012."

Acts 2012, No. 242, § 27, provided: "SELECTION OF AUDITOR. The Legislative Auditor and Chief Fiscal Officer of the State shall jointly select the independent auditor to audit the Comprehensive Annual Financial Report for the period ending June 30, 2013."

10-4-412. Audits of counties and municipalities.

(a)(1) Except as provided in subdivision (a)(2) of this section, the Legislative Auditor shall audit counties and municipalities in the state.

(2)(A)(i) Any municipality may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct a financial audit as prescribed in subsection (b) of this section.

(ii) All reports of the annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report.

(B) Nothing in subdivision (a)(2)(A) of this section limits the authority of the Legislative Auditor to conduct an audit of any municipality.

(b) FINANCIAL AUDITS.

(1)(A) For purposes of this subsection, a financial audit shall be planned and conducted, and the results of the work reported in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

(B) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(2) REGULATORY BASIS.

(A) For county and municipal financial audits, the financial statements shall be presented on a fund-basis format with, at a minimum, the general fund and the street or road fund presented separately, and all other funds included in the audit presented in the aggregate.

(B) The financial statements shall consist of the following:

(i) A balance sheet;

(ii) A statement of revenues (receipts), expenditures (disbursements), and changes in fund equity (balances);

(iii) A comparison of the final adopted budget to the actual expenditures for the general fund and street or road fund of the entity; and

(iv) Notes to the financial statements.

(C) The report shall include as supplemental information a schedule of capital assets, including:

(i) Land;

(ii) Buildings; and

(iii) Equipment.

(3) **ALTERNATIVE BASIS.** As an alternative to the basis prescribed in subdivision (b)(2) of this section, the governing body of a municipality or a county may adopt an annual resolution requiring its annual financial audit to be performed and financial statements presented in accordance with the standards prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office, if applicable.

(c) AGREED-UPON PROCEDURES.

(1) As an alternative to a financial audit, the Legislative Auditor may conduct an agreed-upon procedures engagement of the records and accounts of all municipal or county offices, officials, or employees.

(2) For purposes of this subsection, agreed-upon procedures engagements shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants and subject to the minimum procedures prescribed by the Legislative Joint Auditing Committee.

(3)(A) Unless otherwise provided by law, the governing body of a municipality may choose and employ accountants licensed and in good standing with the Arkansas State Board of Public Accountancy to conduct agreed-upon procedures engagements.

(B) All reports shall be filed with the Legislative Auditor within ten (10) days of issuance.

History. Acts 2005, No. 2201, § 7; 2011, No. 349, § 1.

Amendments. The 2011 amendment deleted "OF PRESENTATION" following "BASIS" in the headings of (b)(2) and (3); substituted "basis" for "presentation" in (b)(3); deleted "MUNICIPAL" preceding "AGREED-UPON" in the heading of (c); and substituted "Legislative Joint Auditing Committee" for "Legislative Auditor" in (c)(2).

10-4-413. Audits of schools.

(a) Except as provided in subdivision (b)(1) of this section, the Legislative Auditor shall audit schools.

(b)(1)(A) A school may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing with the Arkansas State Board of Public Accountancy to conduct an annual financial audit in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

(B) If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:

(i) The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant or licensed accountant in public practice under subdivision (b)(1)(A) of this section; and

(ii) The State Board of Education approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.

(C) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with the Government Auditing Standards.

(2) Every report of an annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance of the audit report to the school board.

(3) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any school.

(c) REGULATORY BASIS OF PRESENTATION.

(1)(A) For school financial audits, the financial statements shall be presented on a fund basis format with, as a minimum, the general fund and the special revenue fund presented separately and all other funds included in the audit presented in the aggregate.

(B) The financial statements shall consist of the following:

(i) A balance sheet;

(ii) A statement of revenues, expenditures, and changes in fund balances;

(iii) A comparison of the final adopted budget to the actual expenditures for the general fund of the entity and the special revenue fund of the entity; and

(iv) Notes to the financial statements.

(C) The report shall include as supplemental information a schedule of capital assets, including:

(i) Land;

(ii) Buildings; and

(iii) Equipment.

(D) The State Board of Education shall promulgate rules necessary to administer the regulatory basis of presentation provided in this subsection.

(2) ALTERNATIVE BASIS OF PRESENTATION.

(A) As an alternative to the presentation prescribed in subdivision (c)(1) of this section, the governing body of a school may require its annual financial audit to be performed and financial statements presented in accordance with the guidelines prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office, if applicable.

(B) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with Governmental Auditing Standards.

History. Acts 2005, No. 2201, § 7; 2011, No. 993, § 16.

A.C.R.C. Notes. Acts 2005, No. 1444, § 1, effective March 31, 2005, amended § 10-4-208 to read as follows: "10-4-208. Audit of schools.

"(a) As used in this section:

"(1) 'Public funds' means any funds, moneys, receivables, grants, investments, instruments, real or personal property, or other assets, liabilities, equities, revenues, receipts, or disbursements belonging to, held by or for, or passed through a school; and

"(2) 'School' means any public school district, charter school, educational cooperative, or publicly supported entity having supervision over public educational entities.

"(b)(1) Except as provided in subdivision (b)(2)(A) of this section, the Legislative Auditor shall conduct audits of all schools and any transactions regarding public funds of the schools.

"(2)(A)(i) However, any school may retain the services of a licensed certified public accountant or a licensed accountant in public practice in good standing

with the Arkansas State Board of Public Accountancy to conduct the annual financial audits in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States.

“(ii) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with governmental auditing standards.

“(B) Every report of an annual financial audit shall be filed with the Legislative Auditor within ten (10) days of issuance to the board.

“(C) Nothing in this subsection limits the authority of the Legislative Auditor to conduct an audit of any school.

“(c) REGULATORY BASIS OF PRESENTATION.

(1) For school financial audits, the financial statements shall be presented on a fund basis format with, as a minimum, the general fund and the special revenue fund presented separately and all other funds included in the audit presented in the aggregate.

“(2) The financial statements shall consist of the following:

“(A) A balance sheet;

“(B) A statement of revenues, expenditures, and changes in fund balances;

“(C) A comparison of the final adopted budget to the actual expenditures for the general fund of the entity and the special revenue fund of the entity; and

“(D) Notes to the financial statements.

“(3) The report shall include as supplemental information a schedule of capital assets, including land, buildings, and equipment.

“(4) The State Board of Education shall promulgate the rules necessary to administer the regulatory basis of presentation provided in this subsection.

“(d) ALTERNATIVE BASIS OF PRESENTATION.

(1) As an alternative to the presentation prescribed in subsection (c) of this section, the governing body of a school may require its annual financial audit to be performed and financial statements presented in accordance with the guidelines prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the Government Accountability Office, if applicable.

“(2) The report shall include a report on internal control over financial reporting and on compliance and other matters based on an audit of financial statements performed in accordance with governmental auditing standards.

“(e)(1) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting following receipt of the audit report if the audit report is received by the board or governing body prior to ten (10) days before the regularly scheduled meeting.

“(2) If the audit report is received by the board or governing body within ten (10) days before a regularly scheduled meeting, the audit report may be reviewed at the next regularly scheduled meeting after the ten-day period.

“(3) The board or governing body shall take appropriate action relating to each finding and recommendation contained in the audit report.

“(4) The minutes of the board or governing body shall document the review of the findings and recommendations and the action taken by the board or governing body.”

This section was subsequently repealed by Acts 2005, No. 2201, § 11, effective April 13, 2005.

Amendments. The 2011 amendment inserted present (b)(1)(B) and redesignated former (b)(1)(B) as (b)(1)(C).

10-4-414. Audits of prosecuting attorneys.

(a) The Legislative Auditor shall audit prosecuting attorneys in the State of Arkansas.

(b) REGULATORY BASIS OF PRESENTATION.

(1) For prosecuting attorney financial audits, the financial statements shall be presented on a fund basis format with, at a minimum, the general fund presented separately and all other funds included in the audit presented in the aggregate.

(2) The financial statements shall consist of the following:

- (A) A balance sheet;
- (B) A statement of revenues (receipts), expenditures (disbursements), and changes in fund equity (balances); and
- (C) Notes to the financial statements.

(3) The report shall include as supplemental information a schedule of capital assets, including:

- (A) Land;
- (B) Buildings; and
- (C) Equipment.

History. Acts 2005, No. 2201, § 7.

10-4-415. Monitoring of reports by the Legislative Joint Auditing Committee.

The Legislative Joint Auditing Committee shall monitor reports presented to the Legislative Joint Auditing Committee to ensure that they meet the needs of:

- (1) The General Assembly;
- (2) Entities of the state;
- (3) Political subdivisions of the state;
- (4) Schools; and
- (5) The general public.

History. Acts 2005, No. 2201, § 7.

10-4-416. Access to records.

(a)(1) The Legislative Auditor and authorized employees of the Division of Legislative Audit shall have access at all times to any books, accounts, reports, electronic data, vouchers, or other records, confidential or otherwise, of any entity of the state or political subdivision of the state that are deemed necessary to audit transactions related to public funds.

(2) Any business contracting with an entity of the state or a political subdivision of the state to provide electronic or other access to records of a public entity shall provide the Division of Legislative Audit access to the public entity's records without charge or reimbursement.

(b)(1) In the performance of the Legislative Auditor's duties, the Legislative Auditor or the Legislative Auditor's authorized assistants may ascertain, inspect, confirm, copy, audit, and examine any financial records, documents, or accounts of any financial institution, business, or nonprofit entity or any other person or entity regarding transactions or relationships with an entity of the state or a political subdivision of the state.

(2) In the investigation of documents, books, and records regarding receipt, expenditure, or disbursement of other funds, the Legislative Auditor shall determine, subject to approval of the Legislative Joint Auditing Committee or its executive committee, that the investigation

of the documents, books, and records is necessary to verify any audit of an entity of the state or a political subdivision of the state or to investigate misappropriation of other funds.

(c) No financial institution, business, nonprofit entity, or any other person or entity shall be liable for making available to the Legislative Auditor any of the information required by the Legislative Auditor under this section.

(d)(1) Nothing in this section shall be construed as authorizing or permitting the release of information prohibited by law or not subject to public inspection under the provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq., or other applicable law.

(2)(A) All records, documents, correspondence, or other data of a person, foundation, nonprofit corporation or any other entity holding other funds that would infringe upon the rights, privacy, or confidentiality of donors of private funds to the person, foundation, nonprofit corporation, or other entity are exempt from public disclosure.

(B) Any working papers or other data relating to the donor information examined by the Legislative Auditor under this chapter are confidential and exempt from public disclosure.

(e) Records that are exempt from public disclosure in the hands of the entity's custodian remain exempt from public disclosure in the hands of the Legislative Auditor and the Division of Legislative Audit.

(f) Any person knowingly providing false documents, records, or other data to the Legislative Auditor or his or her authorized assistants, upon the finding by a circuit court, shall be guilty of providing false information and shall be punished in the same manner as a person guilty of tampering with a public record, § 5-54-121.

History. Acts 2005, No. 2201, § 7.

10-4-417. Presentation and filing of audit reports.

(a) All audit reports prepared by the Division of Legislative Audit and any audit report required to be filed with the Legislative Auditor or the Division of Legislative Audit shall be presented to the Legislative Joint Auditing Committee or a standing committee thereof.

(b) Copies of all audit reports prepared by the Division of Legislative Audit, and any audit report required to be filed with the Legislative Auditor or the division shall be presented on the website of the division in a manner suitable for downloading and printing.

(c) All final reports shall be open to public inspection after presentation to the Legislative Joint Auditing Committee or after being approved for early release by the cochaIRS of the Legislative Joint Auditing Committee.

(d)(1) The governing body and executive official of an entity of the state or political subdivision of the state shall receive a copy of the entity's audit report prior to presentation to the Legislative Joint Auditing Committee.

(2) Until the reports are presented to the Legislative Joint Auditing Committee or approved for early release by the cochair of the Legislative Joint Auditing Committee, the reports are not considered public information and are not open to public inspection.

(e) The exemption from public inspection under subsections (c) and (d) of this section applies to all reports in the custody or possession of any person before presentation of the report to the Legislative Joint Auditing Committee or approval for early release, regardless of the actual physical location of the report.

History. Acts 2005, No. 2201, § 7; 2011, No. 349, §§ 2, 3.

Amendments. The 2011 amendment, in (d)(2), substituted “Cochairs of the Legislative Joint Auditing Committee” for “Legislative Joint Auditing Committee co-chair” and added “and are not open to public inspection” at the end; and added (e).

10-4-418. Review of audit report by governing body.

(a) The audit reports and accompanying comments and recommendations relating to any entity of the state or political subdivision of the state shall be reviewed by the applicable governing body if the entity has such a governing body.

(b)(1) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting following receipt of the audit report if the audit report is received by the governing body at least ten (10) days prior to the regularly scheduled meeting.

(2) If the audit report is received by the governing body less than ten (10) days prior to a regularly scheduled meeting, the audit report shall be reviewed at the regularly scheduled meeting falling within the ten-day period or the next regularly scheduled meeting subsequent to the ten-day period.

(c) The governing body shall take appropriate action relating to each finding and recommendation contained in the audit report.

(d) The minutes of the governing body shall document the review of the findings and recommendations and the action taken by the governing body.

History. Acts 2005, No. 2201, § 7.

10-4-419. Report of improper or illegal practices.

(a)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of improper practices of financial administration or inadequacy of fiscal records, the Legislative Auditor shall report the evidence to the appropriate executive official or officials affected thereby and to the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the findings to the Attorney General for review and appropriate action.

(b)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of apparent unauthorized disbursements or unaccounted-for funds or property by a public official or employee, the Legislative Auditor shall promptly report the transactions in writing to the prosecuting attorney for the county in which the entity of the state or the political subdivision of the state is located, the Governor, the appropriate executive official or officials affected thereby, and the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the same to the Attorney General for review and appropriate action.

(c)(1) The Legislative Auditor shall notify and cooperate with the appropriate prosecuting attorney on all matters that appear to involve a criminal offense.

(2) Upon request and with the approval of the cochairs of the Legislative Joint Auditing Committee, the Legislative Auditor shall cooperate in any other investigations by the appropriate prosecuting attorney, the Department of Arkansas State Police, or any other state or federal law enforcement agency.

(d)(1) While the Legislative Joint Auditing Committee is not established as an agency to effect through its own direct action the correction of improper practices of financial administration or the inadequacy of fiscal records, the prosecution of defaulting public officials, or the improvement of accounting systems in any entity of the state or political subdivision of the state, it is nevertheless determined that the action or nonaction on the part of the appropriate public officials in respect to the correction of the matters when called to their attention or in respect to the institution of criminal proceedings where proper, has pertinent bearing upon the question of the necessity for future remedial legislation.

(2) It is for this reason that the Legislative Joint Auditing Committee is authorized to inform public officials to the extent provided by law of the findings of the Legislative Auditor in respect to any such matters.

(e)(1) If the Legislative Joint Auditing Committee determines that an entity of the state or a political subdivision of the state has not corrected the deficiencies noted in one (1) or more previous reports, the Legislative Joint Auditing Committee may request the prosecuting

attorney of the judicial district in which the entity of the state or the political subdivision of the state is located to take appropriate action to assure that the records of the entity of the state or the political subdivision of the state are maintained in accordance with law.

(2) If the prosecuting attorney fails or refuses to take appropriate action within a reasonable time after receipt of notice from the Legislative Joint Auditing Committee that an entity of the state or a political subdivision of the state is not maintaining its records in substantial compliance with law, the Legislative Joint Auditing Committee may request the Attorney General to take such appropriate action as may be necessary to assure that the records of the entity of the state or political subdivision of the state are maintained in compliance with law.

(f)(1) By June 30 of each year, the Attorney General and each prosecuting attorney to whom the Legislative Joint Auditing Committee has reported a matter under this section shall file with the Legislative Joint Auditing Committee a disposition report on the status of the matters that have not been previously reported as resolved to the Legislative Joint Auditing Committee.

(2) Each disposition report shall include, but is not limited to:

(A) The date the matter was reported to the Attorney General or the prosecuting attorney;

(B) The amount of loss or funds unaccounted for in connection with the matter;

(C) The status or disposition of the matter; and

(D) Other comments pertinent to the investigation or disposition of the matter.

History. Acts 2005, No. 2201, § 7; ceding “the Legislative Joint Auditing Committee” in two places, and made a minor stylistic change.

Amendments. The 2009 amendment deleted “the Legislative Council and” pre-

10-4-420. Testimony before courts.

(a) In all criminal or civil actions brought as the result of the findings set forth in any audit report of the Legislative Auditor, the Legislative Auditor or his or her assistants, upon request of the proper officers of the court shall give testimony and otherwise make their services available in the prosecution of any action.

(b) The Legislative Auditor and his or her assistants shall not be entitled to witness fees for making the testimony.

History. Acts 2005, No. 2201, § 7.

10-4-421. Subpoenas — Witnesses — Penalties for failure to appear — Perjury.

(a) In connection with an audit of any entity of the state or a political subdivision of the state or an audit related to any transactions or

relationships with the entities, the Legislative Auditor may subpoena records or summon and subpoena any person whose testimony may be desired or deemed necessary to appear before him or her at a time and place and with such papers, files, and records as may be named in the summons or subpoena.

(b) In conducting any audit or examination, the Legislative Auditor or any authorized assistant has the authority to administer oaths.

(c) Any person summoned to appear before the Legislative Auditor or any of his or her authorized assistants to testify or submit papers, files, and records as required in this section shall receive the same compensation as is received by persons serving as witnesses in circuit courts of this state.

(d)(1) If any person subpoenaed to appear by the Legislative Auditor fails to appear or to produce books, documents, or records subpoenaed, the fact shall be certified to the circuit court of the county in which the hearing is held, and the circuit court shall punish the person for contempt in the same manner as punishment for contempt is imposed for failure to respond to a subpoena or directive of the circuit court.

(2) If a person placed under oath or subpoenaed by the Legislative Auditor, his or her authorized assistants, or the Legislative Joint Auditing Committee knowingly gives false testimony that is material to an audit, that person shall be deemed guilty of perjury upon conviction by a court of competent jurisdiction.

(e)(1)(A) Subpoenas issued by the Legislative Auditor shall be served by the sheriff of the county in which the person, books, records, or documents subpoenaed are located.

(B) The sheriff shall be entitled to the same fees for the service of process as provided by law for service of process issued by the circuit court.

(2) However, at his or her option the Legislative Auditor may direct the Department of Arkansas State Police to serve any subpoena.

History. Acts 2005, No. 2201, § 7.

10-4-422. Records — Public inspection.

(a) The Legislative Auditor shall keep, or cause to be kept, a complete, accurate, and adequate set of fiscal transactions of the Division of Legislative Audit.

(b) The Legislative Auditor shall also keep paper, digital, or electronic copies of all audit reports, examinations, investigations, and any other reports or releases issued by the Legislative Auditor.

(c)(1) All working papers, including communications, notes, memoranda, preliminary drafts of audit reports, and other data gathered in the preparation of audit reports by the division are exempt from all provisions of the Freedom of Information Act of 1967, § 25-19-101 et seq., and are not to be considered public documents for purposes of inspection or copying under the Freedom of Information Act of 1967,

§ 25-19-101 et seq., or any other law of the State of Arkansas, except as provided in this subsection.

(2) After any audit report has been presented to members of the Legislative Joint Auditing Committee, the audit report and copies of any documents contained in the working papers of the division shall be open to public inspection, except documents specifically exempted from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., unsubstantiated allegations obtained in complying with the provisions of the American Institute of Certified Public Accountants' Statement on Auditing Standards Number 99 or other professional guidelines regarding the detection of fraud, and documents which disclose auditing procedures and techniques as defined in subdivision (c)(3) of this section.

(3) As used in this subsection:

(A) "Audit program" means the instructions and guidelines formulated by the division to inform its accountants about the examination procedures to be followed in the course of examining records and accounts to verify their accuracy, including verifications that the examination procedures have been followed; and

(B) "Documents which disclose auditing procedures and techniques" includes:

(i) Internal control questionnaires consisting of the checklist of accounting and administrative procedures employed by the Division of Legislative Audit in the course of performing an audit; and

(ii) An audit program.

History. Acts 2005, No. 2201, § 7.

10-4-423. Seal.

The Secretary of State shall procure an official seal for the Division of Legislative Audit.

History. Acts 2005, No. 2201, § 7.

10-4-424. Audit of data processing operations.

(a) The Division of Legislative Audit may conduct audits of all or any part of automated data processing operations or systems of any entity of the state or political subdivision of the state.

(b)(1)(A) Data processing charges incurred in the performance of audits or audit-related tasks by the division shall be absorbed by the state agency or political subdivision of the state processing data for the computer application being accessed or audited.

(B) However, the use shall not interfere with or impede normal processing by the data processing installation.

(2) The data processing provider shall provide requested data or other information or services to the division within ten (10) days of the request, unless another date is agreed to by the Legislative Auditor.

(c) The Department of Information Systems, its successor agency, or other entities of the state or political subdivisions of the state that provide Internet, network, or other computer services or information to an entity of the state or a political subdivision of the state shall provide access to all data, support, or other necessary information services to the division in connection with their functions at no cost to the division.

(d) In connection with any audit by the division, contractual providers of data processing or other computer-related services to entities of the state or political subdivisions of the state shall cooperate and provide requested information at no cost to the division.

(e) All contracts by entities of the state and political subdivisions of the state with vendors for data processing or other computer services shall contain a provision permitting the division access and authority to audit computer applications supplied by vendors.

History. Acts 2005, No. 2201, § 7.

10-4-425. Format of private audit reports.

(a) To provide for a consistent and understandable financial format, all financial audit reports prepared by certified public accountants in private practice or public accountants of entities of the state or political subdivisions of the state shall be in substantially the same form as reports prepared by the Legislative Auditor for a similar governmental entity.

(b)(1) The audit reports shall present the financial information and comments in a similar format as audit reports of the Legislative Auditor.

(2) The reports shall include coverage of all applicable laws that relate to the operation of the governmental unit, including coverage of purchasing, bonding, revenue, and expenditures with comments on any apparent violation of applicable state or local legislative acts, codes, or regulations.

(c)(1) The Legislative Joint Auditing Committee shall develop a system that allows an auditor in private practice to present a proposed format for preparing a given audit report on one (1) of the named governmental units for the review of the Legislative Joint Auditing Committee.

(2) If the Legislative Joint Auditing Committee finds that the audit report format is similar to the audit reports prepared by the Legislative Auditor, then the Legislative Joint Auditing Committee shall approve the format of the audit on the named governmental units.

(3) If the private auditor's format does not meet the approval of the Legislative Joint Auditing Committee, then the Legislative Joint Auditing Committee may authorize and direct that the audit shall be conducted by the staff of the Legislative Auditor.

History. Acts 2005, No. 2201, § 7.

10-4-426. Continuing professional education courses.

(a) In addition to contracting with private entities, the Division of Legislative Audit may contract and pay entities of the state or political subdivisions of the state or any of their part-time or full-time employees for services rendered or for materials, supplies, or other expenses incurred in conducting continuing professional education courses for the staff of the division.

(b) Any funds received by public employees under this section shall be considered supplemental to their regular salaried positions and shall not be subject to the restrictions of § 6-63-307, § 19-4-1604, or other statutory salary limitations regarding line item maximums or grades and steps.

(c) This section applies whether the public employee is paid directly or indirectly by an entity of the state or a political subdivision of the state.

History. Acts 2005, No. 2201, § 7.

10-4-427. Claims against sureties.

(a) With the approval of the Legislative Joint Auditing Committee, the Legislative Auditor shall give notice and make proof of loss to and demand payment of the surety on any bond covering an official or employee in which the audit report of the records of that official or employee reflects any shortage or other liability for which that official or employee and his or her surety may in any way be liable.

(b)(1) Within a reasonable time after the Legislative Auditor has given notice and made proof of loss and demand for payment as stated in subsection (a) of this section, the surety shall make payment of the amounts found to be due in the name of the appropriate entity and forward the payment to the Legislative Auditor.

(2) The Legislative Auditor shall transmit the payments received to the treasurers of the respective local taxing units with instructions to credit the amounts received to the accounts entitled to the funds.

(c) The requirements of the self-insured fidelity bond program, § 21-2-701 et seq., shall apply to those officials or employees covered by the program, including, but not limited to, the provision for timing of coverage determinations by the Governmental Bonding Board under § 21-2-709.

History. Acts 2005, No. 2201, § 7.

CHAPTER 5**COMMISSION ON INTERSTATE COOPERATION****SECTION.**

10-5-101 — 10-5-105. [Repealed.]

10-5-101 — 10-5-105. [Repealed.]

Publisher's Notes. This chapter, concerning the Commission on Interstate Cooperation, was repealed by Acts 1995, No. 526, § 1. The chapter was derived from the following sources:

10-5-101. Acts 1951, No. 378, § 2; 1955, No. 164, § 1; 1957, No. 394, § 1; 1965, No. 374, § 1; 1983, No. 427, § 1; A.S.A. 1947, § 6-112.

10-5-102. Acts 1951, No. 378, § 3; A.S.A. 1947, § 6-113.

10-5-103. Acts 1951, No. 378, § 4; 1957, No. 394, § 2; A.S.A. 1947, § 6-114.

10-5-104. Acts 1951, No. 378, § 5; A.S.A. 1947, § 6-115.

10-5-105. Acts 1951, No. 378, § 6; A.S.A. 1947, § 6-116.

CHAPTER 6**EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT****SECTION.**

10-6-101. Title.

10-6-102. Policy.

10-6-103. Definitions.

10-6-104. Designation of emergency interim successors.

10-6-105. Status, qualifications, and term of successors.

10-6-106. Contingent designation method.

10-6-107. Recordation — Effective dates of designation, removal.

10-6-108. Oath of successors.

10-6-109. Duties of successors.

10-6-110. Convening of General Assembly

SECTION.

in event of attack — Attendance — Length of sessions.

10-6-111. Location.

10-6-112. Assumption and exercise of powers and duties of legislator — Ouster.

10-6-113. Quorum and vote requirements.

10-6-114. Privileges, immunities, and compensation of successors.

10-6-115. Termination of operation of this chapter — Extension.

Effective Dates. Acts 1961, No. 486, § 16; Jan. 1, 1962.

10-6-101. Title.

This chapter shall be known as the "Emergency Interim Legislative Succession Act".

History. Acts 1961, No. 486, § 1; A.S.A. 1947, § 4-118.

10-6-102. Policy.

The General Assembly declares that:

(1) Recent technological developments make possible an enemy attack of unprecedented destructiveness which may result in the death or inability to act of a large proportion of the membership of the General Assembly;

(2) To conform in time of attack to existing legal requirements pertaining to the General Assembly would be impracticable, would admit of undue delay, and would jeopardize continuity of operation of a legally constituted General Assembly; and

(3) It is therefore necessary to adopt as special provisions this chapter as set out for the effective operation of the General Assembly.

History. Acts 1961, No. 486, § 2; A.S.A. 1947, § 4-119.

10-6-103. Definitions.

As used in this chapter:

(1) "Attack" means any action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state whether through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means, or other weapons or methods; and

(2) "Unavailable" means absent from the place of session, other than on official business of the General Assembly, or unable, for physical, mental, or legal reasons, to exercise the powers and discharge the duties of a legislator whether or not the absence or inability would give rise to a vacancy under existing constitutional or statutory provisions.

History. Acts 1961, No. 486, § 3; A.S.A. 1947, § 4-120.

10-6-104. Designation of emergency interim successors.

(a) Each legislator shall designate not fewer than three (3) nor more than seven (7) emergency interim successors to his or her powers and duties and specify their order of succession.

(b) Each legislator shall review and, as necessary, promptly revise the designations of emergency interim successors to his or her powers and duties to ensure that at all times there are at least three (3) qualified emergency interim successors.

History. Acts 1961, No. 486, § 4; A.S.A. 1947, § 4-121.

10-6-105. Status, qualifications, and term of successors.

(a) An emergency interim successor is one who is designated for possible temporary succession to the powers and duties, but not the office, of a legislator.

(b) No person shall be designated or serve as an emergency interim successor unless under the Constitution and statutes he or she may hold the office of the legislator to whose powers and duties he or she is designated to succeed, but no constitutional or statutory provision prohibiting a legislator from holding another office or prohibiting the

holder of another office from being a legislator shall be applicable to an emergency interim successor.

(c) An emergency interim successor shall serve at the pleasure of the legislator designating him or her or of any subsequent incumbent of the legislative office.

History. Acts 1961, No. 486, § 5; A.S.A. 1947, § 4-122.

10-6-106. Contingent designation method.

(a) Prior to an attack, if for any reason the number of emergency interim successors for any legislator falls below the required minimum and remains below the minimum for a period of thirty (30) days, then the senior legislator of the same house of the judicial district in which the legislator resides shall promptly designate as many emergency interim successors as are required to achieve the minimum number, but the senior legislator shall not assign to any of his or her designees a rank in order of succession higher than that of any remaining emergency interim successor previously designated by a legislator for succession to his or her own powers and duties.

(b) Each emergency interim successor designated by the senior legislator shall serve at the pleasure of the person designating him or her.

(c) The legislator for whom the emergency interim successor is designated or any subsequent incumbent of his or her office may change the rank in order of succession or replace at his or her pleasure any emergency interim successor so designated.

History. Acts 1961, No. 486, § 6; A.S.A. 1947, § 4-123.

10-6-107. Recordation — Effective dates of designation, removal.

(a) Each designation of an emergency interim successor shall become effective when the legislator or the senior legislator as mentioned in § 10-6-106(a) making the designation files with the Secretary of State the successor's name, address, and rank in order of succession.

(b) The removal of an emergency interim successor or change in order of succession shall become effective when the legislator so acting files this information with the Secretary of State.

(c) All such data shall be open to public inspection.

(d) The Secretary of State shall inform the Governor, the Arkansas Department of Emergency Management, the chief clerk of the house concerned, and all emergency interim successors of all designations, removals, and changes in order of succession.

(e) The chief clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in

membership or order of succession as soon as possible after their occurrence.

History. Acts 1961, No. 486, § 7; A.S.A. 1947, § 4-124; Acts 1999, No. 646, § 2.

Publisher's Notes. Acts 1999, No. 646, § 1, provided: "The State Office of Emergency Services shall hereafter be known as the Arkansas Department of Emergency Management. Any provisions of the Arkansas Code not corrected by this act

shall be corrected by the Arkansas Code Revision Commission to reflect the title Arkansas Department of Emergency Management instead of State Office of Emergency Services or any similar titles that now apply to the State Office of Emergency Services."

10-6-108. Oath of successors.

Promptly after designation, each emergency interim successor shall take the oath required for the legislator to whose powers and duties he or she is designated to succeed. No other oath shall be required.

History. Acts 1961, No. 486, § 8; A.S.A. 1947, § 4-125.

10-6-109. Duties of successors.

Each emergency interim successor shall keep himself or herself generally informed as to the duties, procedures, practices, and current business of the General Assembly, and each legislator shall assist his or her emergency interim successors to keep themselves so informed.

History. Acts 1961, No. 486, § 9; A.S.A. 1947, § 4-126.

10-6-110. Convening of General Assembly in event of attack — Attendance — Length of sessions.

(a) In the event of an attack, the Governor shall call the General Assembly into session as soon as practicable, and in any case within ninety (90) days following the inception of the attack. If the Governor fails to issue the call, the General Assembly on the ninetieth day from the date of inception of the attack shall automatically convene at the place where the Governor then has his or her office.

(b) Each legislator and each emergency interim successor, unless he or she is certain that the legislator to whose powers and duties he or she is designated to succeed or any emergency interim successor higher in order of succession will not be unavailable, shall proceed to the place of session as expeditiously as practicable.

(c) At such session or at any session in operation at the inception of the attack and at any subsequent sessions, limitations on the length of sessions and on the subjects which may be acted upon shall be suspended.

History. Acts 1961, No. 486, § 11; A.S.A. 1947, § 4-128.

10-6-111. Location.

Whenever in the event of an attack or upon finding that an attack may be imminent, the Governor deems the place of session then prescribed unsafe, he or she may change it to any place within or without the state which he or she deems safer and more convenient.

History. Acts 1961, No. 486, § 10;
A.S.A. 1947, § 4-127.

10-6-112. Assumption and exercise of powers and duties of legislator — Ouster.

(a) If in the event of an attack a legislator is unavailable, his or her emergency interim successor highest in order of succession who is not unavailable shall exercise the powers and assume the duties of the legislator except for the power and duty to appoint emergency interim successors.

(b) An emergency interim successor shall exercise these powers and assume these duties until the incumbent legislator, an emergency interim successor higher in order of succession, or a legislator appointed or elected and legally qualified can act.

(c) Each house of the General Assembly, in accordance with its own rules, shall determine who is entitled under the provisions of this chapter to exercise the powers and assume the duties of its members.

(d) All constitutional and statutory provisions pertaining to ouster of a legislator shall be applicable to an emergency interim successor who is exercising the powers and assuming the duties of a legislator.

History. Acts 1961, No. 486, § 12;
A.S.A. 1947, § 4-129.

10-6-113. Quorum and vote requirements.

In the event of an attack:

(1) Quorum requirements for the General Assembly shall be suspended; and

(2) When the affirmative vote of a specified proportion of members for approval of a bill, resolution, or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient.

History. Acts 1961, No. 486, § 14;
A.S.A. 1947, § 4-131.

10-6-114. Privileges, immunities, and compensation of successors.

(a) When an emergency interim successor exercises the powers and assumes the duties of a legislator, he or she shall be accorded the privileges and immunities, compensation, allowances, and other perquisites of office to which a legislator is entitled.

(b) In the event of an attack, each emergency interim successor, whether or not called upon to exercise the powers and assume the duties of a legislator, shall be accorded the privileges and immunities of a legislator while traveling to and from a place of session and shall be compensated for his or her travel in the same manner and amount as a legislator.

(c) This section shall not in any way affect the privileges, immunities, compensation, allowances, or other perquisites of office of an incumbent legislator.

History. Acts 1961, No. 486, § 13;
A.S.A. 1947, § 4-130.

10-6-115. Termination of operation of this chapter — Extension.

(a) The authority of emergency interim successors to succeed to the powers and duties of legislators, the operation of the provisions of this chapter relating to quorum, the number of affirmative votes required for legislative action, and limitations on the length of sessions and the subjects which may be acted upon shall expire two (2) years following the inception of an attack, but nothing in this chapter shall prevent the resumption before that time of the filling of legislative vacancies and the calling of elections for the General Assembly in accordance with applicable constitutional and statutory provisions.

(b) The Governor, acting by proclamation, or the General Assembly, acting by concurrent resolution, may from time to time extend or restore the authority or the operation of any of the provisions upon a finding that events rendered the extension or restoration necessary, but no extension or restoration shall be for a period of more than one (1) year.

History. Acts 1961, No. 486, § 15;
A.S.A. 1947, § 4-132.

APPENDIX — TITLE 10 SUNSET LAWS.

The 1977 regular session of the General Assembly enacted a “sunset law” Acts 1977, No. 100, which provided for review, and possible termination, of numerous state agencies. This act was amended and supplemented by legislation in succeeding sessions through 1983. All continuations and terminations mandated by these acts are now complete and are reflected in this Code. The sunset laws are set out below for the convenience of users of this Code.

1. Acts 1977, No. 100.
2. Acts 1977 (1st Ex. Sess.), No. 12.
3. Acts 1979, No. 683.
4. Acts 1981, No. 883.
5. Acts 1983, No. 764.

1. ACTS 1977, No. 100.

SECTION 1. INTENT. The General Assembly hereby determines that State Government actions have produced a substantial increase in the number of agencies, departments, boards, commissions, institutions, and programs of this State, growth of pre-existing programs, and the proliferation of rules and regulations, and that this whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The General Assembly further determines that by establishing a system for the termination, study, review, continuation, or re-establishment of such agencies, it will be in a better position to evaluate the need for the continued existence of existing and future agencies, departments, boards, commissions, institutions, and programs of the State Government.

It is further the intention of the General Assembly to establish an orderly schedule for the termination of all existing State agencies, during a six-year period, but to make provision for legislative review by the Joint Interim Committees of the Arkansas General Assembly, including the holding of public hearings, to enable the General Assembly to have the benefit of recommendations for the continuation of those State agencies which are deemed to be essential for the necessary and efficient operation of Government, prior to the termination thereof.

SECTION 2. DEFINITIONS. As used in this Act, the term “State agency” or “State agencies” shall include and mean State agencies, departments, boards, commissions, institutions, councils, advisory committees, and programs and services of the State of Arkansas, to which specific reference is made in this Act.

SECTION 3. The following State agencies shall terminate on June 30, 1979:

(a) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Education:

(1) the State Department of Education and the State Board of Education, created by Section 3 of Act 169 of 1931, as amended, the same being Arkansas Statutes 80-102, which were transferred to the Department of Education under the provisions of Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910;

(2) the Arkansas Library Commission, created by Section 1 of Act 139 of 1935, as amended, the same being Arkansas Statutes 6-301, as transferred to the Library Division of the Department of Education by Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910, and the Library Division of the Department of Education, created by Section 10 of Act 38 of 1971;

(3) the Arkansas School for the Blind, created by Section 1 of Act 64 of 1879, as amended, the same being Arkansas Statutes 80-2201;

(4) the Arkansas School for the Deaf, created by Section 1 of Act 36 of 1868, as amended, the same being Arkansas Statutes 80-2301;

(5) the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf, created by Section 2 of Act 1 of 1943, as amended, the same being Arkansas Statutes 7-201;

(6) the Educational Television Commission, created by Section 1 of Act 198 of 1961, the same being Arkansas Statutes 80-3901, as transferred to the Educational Television Division of the Department of Education by Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910, and the Educational Television Division of the Department of Education, created by Section 10 of Act 38 of 1971; and

(7) the Board for Vocational Education, created by Section 187 of Act 169 of 1931, the same being Arkansas Statutes 80-2514.

(b) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Public Health, Welfare, and Labor:

(1) the Cooperative Area Manpower Planning System, created by Executive Order 73-1;

(2) the Liquefied Petroleum Gas Board, created by Section 1 of Act 31 of 1965, the same being Arkansas Statutes 53-701, and the Liquefied Petroleum Gas Advisory Committee, created by Section 5 of Act 31 of 1965, the same being Arkansas Statutes 53-704;

(3) the Employment Security Division of the Department of Labor, created by Section 10 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1113;

(4) the Labor Board, created by Section 5 of Act 25 of 1968 (1st Ex. Sess.), the same being Arkansas Statutes 81-323;

(5) the Department of Labor, created by Section 2 of Act 161 of 1937, as amended, the same being Arkansas Statutes 5-915;

(6) the Office of the State Mine Inspector, created by Section 1 of Act 130 of 1917, as amended, the same being Arkansas Statutes 52-401, and as transferred to the Department of Labor by Section 15 of Act 38 of 1971, the same being Arkansas Statutes 5-915;

(7) the Board of Review created by Section 6 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1107;

(8) the State Advisory Council to the Employment Security Division of the Department of Labor, created by Section 11 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1114;

(9) the Elevator Safety Board, created by Section 2 of Act 189 of 1963, as amended, the same being Arkansas Statutes 82-1802;

(10) the Boiler Advisory Board, created by Section 2 of Act 494 of 1961, as amended, the same being Arkansas Statutes 81-502;

(11) the Arkansas Employment Agency Advisory Council, created by Section 3 of Act 493 of 1975, the same being Arkansas Statutes 81-1015;

(12) the Boiler Inspection Division of the Department of Labor, created by Section 1 of Act 494 of 1961, the same being Arkansas Statutes 81-501;

(13) the State Kidney Disease Commission, created by Section 2 of Act 450 of 1971, the same being Arkansas Statutes 82-2502;

(14) the State Spinal Cord Commission, created by Section 2 of Act 311 of 1975, the same being Arkansas Statutes 82-3302;

(15) the Pollution Control Commission, created by Section 3 of Act 472 of 1949, as amended, the same being Arkansas Statutes 82-1903, transferred to the Department of Pollution Control and Ecology by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908, and the Department of Pollution Control and Ecology created by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908.

(16) the Environmental Preservation Division of the Department of Pollution Control and Ecology, created by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908;

(17) the Division of Water Pollution Control, the Division of Air Pollution Control, the Division of Solid Waste Management, the Division of Environmental Preservation, and the Division of Administration of the Pollution Control Commission, created by Section 2 of Part I of Act 472 of 1949, as amended, the same being Arkansas Statutes 82-1903, and as transferred to the Department of Pollution Control and Ecology by Section 8 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-908;

(18) the State Health Planning Council, created by Section 3 of Act 305 of 1969, the same being Arkansas Statutes 82-2303, transferred to the Statewide Health Coordinating Council by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607; and the Statewide Health Coordinating Council, created by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607.

(19) the Nursing Home Advisory Council, created by Section 8 of Act 58 of 1969, the same being Arkansas Statutes 82-2208;

(20) the Advisory Hospital Council, created by Section 8 of Act 414 of 1961, as amended, the same being Arkansas Statutes 82-334;

(21) the Emergency Medical Services Advisory Council, created by Section 3 of Act 435 of 1975, the same being Arkansas Statutes 82-3403;

(22) the Child Care Facility Review Board, created by Section 12 of

Act 434 of 1969, as amended, the same being Arkansas Statutes 83-911;
 (23) the Arkansas Office on Drug Abuse Prevention of the Department of Social and Rehabilitative Services, created by Section 2 of Act 1000 of 1975, the same being Arkansas Statutes 82-2124;

(24) the Drug Abuse Authority, created by Section 2 of Act 1000 of 1975, the same being Arkansas Statutes 82-2124; and

(25) the Arkansas Drug Abuse Advisory Council, created by Section 6 of Act 1000 of 1975, the same being Arkansas Statutes 82-2128.

(c) The following State Agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Insurance and Commerce:

(1) the State Bank Department, created by Section 1 of Act 113 of 1913, as amended, the same being Arkansas Statutes 67-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(2) the State Banking Board, created by Section 1 of Act 60 of 1933, the same being Arkansas Statutes 67-201;

(3) the State Insurance Department, created by Section 16 of Act 148 of 1959, the same being Arkansas Statutes 66-2101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(4) the Securities Division of the State Bank Department, created by Section 30 of Act 254 of 1959, as amended, the same being Arkansas Statutes 67-1262, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(5) the Professional Malpractice Insurance Commission, created by Section 1 of Act 638 of 1975, the same being Arkansas Statutes 34-2601;

(6) the Arkansas Public Service Commission, created by Section 1 of Act 40 of 1945, the same being Arkansas Statutes 73-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(7) the Division of Utilities and Transportation of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(8) the Savings and Loan Association Board, created by Section 5 of Act 227 of 1963, as amended, the same being Arkansas Statutes 67-1805; and

(9) the Burial Association Board, created by Section 2 of Act 91 of 1953, the same being Arkansas Statutes 66-1802.

(d) The following State Agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Public Transportation:

(1) the Arkansas Transportation Commission, formerly known as the Arkansas Commerce Commission, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916, which was transferred to the Department of Commerce by the same Act;

(2) the Arkansas Bikeways Commission, created by Executive Order

73-7;

(3) the Arkansas Waterways Commission, created by Section 1 of Act 242 of 1967, as amended, the same being Arkansas Statutes 21-1701;

(4) the Arkansas Turnpike Authority, created by Section 2 of Act 312 of 1973, the same being Arkansas Statutes 76-2402;

(5) the White River Navigation District Commission, created by Section 1 of Act 168 of 1963, as amended, the same being Arkansas Statutes 21-1601; and

(6) the Mississippi River Parkway Commission of Arkansas, created by Section 1 of Act 151 of 1961, the same being Arkansas Statutes 76-1812, which was transferred to the Department of Parks and Tourism by Section 1 of Act 496 of 1975, the same being Arkansas Statutes 5-907.1.

(7) the Arkansas Motor Vehicle Commission, created by Section 4 of Act 388 of 1975, the same being Arkansas Statutes 75-2304.

(e) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on City, County, and Local Affairs:

(1) the Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(2) the Local Services Advisory Council, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(3) the Office of Local and Regional Services within the Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(4) the Health Planning Program of the Office of the Governor, transferred to the Department of Planning by Section 4 of Act 38 of 1971, the same being Arkansas Statutes (1973 Suppl.) 5-904, which was transferred to the Department of Local Services by Section 1 of Act 278 of 1975, the same being Arkansas Statutes (1976) 5-904;

(5) the Comprehensive State Health Planning Agency, created by Section 1 of Act 305 of 1969, the same being Arkansas Statutes 82-2301, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904, and which was transferred to the State Health Planning and Development Agency by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607; and

(6) the Health Planning Advisory Council, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904.

(f) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Economic and Industrial Resources and Development:

(1) the Division of Soil and Water Resources of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(2) the Arkansas Soil and Water Conservation Commission, created by Section 1 of Act 14 of 1963, the same being Arkansas Statutes 9-118,

which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(3) the State Apiary Board, created by Section 1 of Act 59 of 1945, the same being Arkansas Statutes 78-1701, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(4) the Arkansas Livestock and Poultry Commission, created by Section 1 of Act 87 of 1963, the same being Arkansas Statutes 78-301, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(5) the State Plant Board, created by Section 3 of Act 414 of 1917, as amended, the same being Arkansas Statutes 77-103, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(6) the Weights and Measures Division of the State Plant Board, created by Section 6 of Act 482 of 1963, as amended, the same being Arkansas Statutes 79-206, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(7) the Division of Livestock, Poultry, and Agriculture of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(8) the Division of Plants of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(9) the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907;

(10) the State Parks, Recreation and Travel Commission, created by Section 1 of Act 330 of 1955, as amended, the same being Arkansas Statutes 9-202, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-916;

(11) the Stonewall Jackson Memorial Commission, created by Section 1 of Act 211 of 1957, as amended, the same being Arkansas Statutes 80-3801, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(12) the Arkansas Territorial Capitol Restoration Commission, created by Section 2 of Act 388 of 1939, as amended the same being Arkansas Statutes 8-102, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907, and transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(13) the Poison Springs State Park, created by Section 1 of Act 182 of 1961, as amended, the same being Arkansas Statutes 9-635, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(14) the Publicity Division of the Arkansas Publicity and Parks Commission, created by Section 1 of Act 310 of 1969, the same being Arkansas Statutes 9-221, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(15) the Arkansas History Commission, created by Section 1 of Act 355 of 1911, as amended, the same being Arkansas Statutes 6-201, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(16) the Monuments and Historical Sites Division of the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(17) the State Economic Development Study Commission, created by Section 1 of Act 193 of 1975;

(18) the Mineral Resources Commission, authorized by House Concurrent Resolution 34 of 1973; and

(19) the Arkansas Civil War Centennial Commission, created by Section 1 of Act 213 of 1959, the same being Arkansas Statutes 8-701.

(g) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Judiciary:

(1) the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(2) the Police Division of the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(3) the Military Division of the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(4) the Law Enforcement Training Academy Division of the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(5) the Police Commission, created by Section 1 of Act 394 of 1969, as amended, the same being Arkansas Statutes 42-403;

(6) the Enforcement Division of the Alcoholic Beverage Control Commission, created by Section 18 of Act 159 of 1951, as amended, the same being Arkansas Statutes 48-1317, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(7) the Alcoholic Beverage Control Division of the Department of Finance and Administration, formerly the Department of Alcohol Beverage Control, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(8) the State Fire Marshal Enforcement Section of the Department of Public Safety, created by Section 21 of Act 1017 of 1975 (Ext. Sess. 1976), the same being Arkansas Statutes 5-914.1;

(9) the Arkansas Law Enforcement Training Academy, created by Section 1 of Act 526 of 1963, as amended, the same being Arkansas

Statutes 42-701, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(10) the Department of Correction, created by Section 1 of Act 50 of 1968 (First Extraordinary Session), as amended, the same being Arkansas Statutes 46-100;

(11) the Board of Pardons and Paroles, created by Section 1 of Act 621 of 1969, as amended, the same being Arkansas Statutes 43-2802;

(12) the State Penitentiary Board, created by Section 1 of Act 208 of 1945, as amended, the same being Arkansas Statutes (1964) 43-2801, as renamed the Board of Correction by Section 2 of Act 50 of 1968 (First Extraordinary Session), as amended, the same being Arkansas Statutes 46-101;

(13) the Workshop-Made Products Committee, created by Section 1 of Act 405 of 1973, as amended, the same being Arkansas Statutes 14-229; and

(14) the Board of Judicial Reapportionment, created by Section 2 of Act 325 of 1975, the same being Arkansas Statutes 22-310 note.

(h) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on State Agencies and Governmental Affairs:

(1) the Office of Planning, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(2) the Veterans Service Office, created by Section 1 of Act 234 of 1945, as amended, the same being Arkansas Statutes 11-1401;

(3) the State Building Services, created by Section 5 of Act 716 of 1975, the same being Arkansas Statutes 5-1022;

(4) the War Memorial Stadium Commission, created by Section 1 of Act 249 of 1947, as amended, the same being Arkansas Statutes 80-3401;

(5) the State Capitol Grounds Commission, created by Section 1 of Act 507 of 1963, the same being Arkansas Statutes 5-225;

(6) the Capitol Zoning District Commission, created by Section 1 of Act 267 of 1975, the same being Arkansas Statutes 5-235;

(7) the Claims Commission, created by Section 2 of Act 276 of 1955, as amended, the same being Arkansas Statutes 13-1401;

(8) the Criminal Detention Facilities Board, created by Section 3 of Act 244 of 1973, the same being Arkansas Statutes 46-1202;

(9) the Governor's Mansion Advisory Council, created by Section 6 of Act 400 of 1973, the same being Arkansas Statutes 12-318;

(10) the Governor's Mansion Commission, created by Section 1 of Act 400 of 1973, the same being Arkansas Statutes 12-313;

(11) the Arkansas Commission on Interstate Cooperation, created by Section 2 of Act 378 of 1951, as amended, the same being Arkansas Statutes 6-112;

(12) the Executive Committee on Law Enforcement Standards, created by Section 6 of Act 452 of 1975, the same being Arkansas Statutes 42-1005;

(13) the State Administration Department, created by Section 1 of Act 468 of 1967, the same being Arkansas Statutes 5-801, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(14) the Criminal Justice and Highway Safety Information Center, created by Section 1 of Act 286 of 1975, the same being Arkansas Statutes 5-1101;

(15) the Budget and Accounting Division; the Local Affairs and Audit Division; the Administrative Services Division; and the Purchasing Division of the State Administration Department, created by Section 3 of Act 468 of 1967, the same being Arkansas Statutes 5-803, which were transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(16) the Surplus Property Program, created by Section 1 of Act 303 of 1945, as amended, the same being Arkansas Statutes 80-732, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(17) the State Printing Board, created by Section 2 of Act 544 of 1975, as amended, the same being Arkansas Statutes 14-302;

(18) the Department of Alcohol Beverage Control, created by Section 1 of Act 159 of 1951, as amended, the same being Arkansas Statutes 48-1301, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(19) the Alcoholic Beverage Control Division of the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(20) the Board of Finance, created by Section 1 of Act 338 of 1955, as amended, the same being Arkansas Statutes 13-401;

(21) the Board of Directors of the Garland Levee District, created by Act 311 of 1913;

(22) the Board of Directors of the Miller Levee District No. 2, created by Act 69 of 1911;

(23) the Board of Directors of the Red River Levee District No. 1, created by Act 97 of 1905;

(24) the Red River Commission, created by Section 1 of Act 264 of 1973, the same being Arkansas Statutes 21-1014;

(25) the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(26) the Personnel Division of the State Administration Department, created by Section 1 of Act 466 of 1967, the same being Arkansas Statutes 5-810, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(27) the Office of Telecommunications, created by Section 2 of Act 47 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 5-824, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(28) the Office of Data Processing, created by Section 2 of Act 46 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 5-820, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(29) the Older Worker Community Service Employment Program, created by Section 2 of Act 815 of 1975, the same being Arkansas Statutes 81-1502, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904; and

(30) the Merit Council, as referred to in Section 6 of Act 280 of 1939, as amended, the same being Arkansas Statutes 83-107.

(i) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Revenue and Taxation:

(1) the Arkansas Racing Commission, created by Section 2 of Act 46 of 1957, as amended, the same being Arkansas Statutes 84-2728, which was transferred to the Division of Racing of the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(2) the Racing Division of the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(3) the Tax Revision Commission, created by Section 1 of Act 726 of 1975; and

(4) the Office of Commissioner of Revenues, created by Section 2 of Act 88 of 1925, as amended, the same being Arkansas Statutes 84-1701, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905.

(j) The following State agencies, to be terminated on June 30, 1979, shall be reviewed by the Joint Interim Committee on Public Retirement and Social Security Programs:

(1) the Arkansas Highway Retirement System, created by Section 2 of Act 454 of 1949, as amended, the same being Arkansas Statutes 76-1902;

(2) the Arkansas Teacher Retirement System, created by Section 16 of Act 93 of 1957, as amended, the same being Arkansas Statutes 80-1436;

(3) the State Police Retirement System, created by Section 1 of Act 311 of 1951, as amended, the same being Arkansas Statutes 42-451;

(4) the Arkansas Judicial Retirement System, created by Section 2 of Act 365 of 1953, as amended, the same being Arkansas Statutes 22-902;

(5) the Arkansas Quasi-Judicial Retirement System, created by Section 1 of Act 148 of 1965, as amended, the same being Arkansas Statutes 12-2701;

(6) the State Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(7) the County Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(8) the Municipal Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(9) the Non-Teacher Public School Employees Division of the Public Employees Retirement System, created by Section 1 of Act 63 of 1965, as amended, the same being Arkansas Statutes 12-2542;

(10) the General Assembly Division of the Public Employees Retirement System, created by Section 1 of Act 202 of 1961, as amended, the same being Arkansas Statutes 12-2510.2;

(11) the Retired Constitutional Officers Division of the Public Employees Retirement System, created by Section 6 of Act 103 of 1971, the same being Arkansas Statutes 12-2511.2;

(12) the County Elected Constitutional Officers Division of the Public Employees Retirement System, created by Section 1 of Act 581 of 1973, the same being Arkansas Statutes 12-2511.5;

(13) the Arkansas Retirement Systems Study Committee, created by Section 1 of Act 293 of 1975;

(14) the Tax Division and the Assessment Coordination Division of the Public Service Commission, which were created by Section 1 of Act 245 of 1959, as amended, the same being Arkansas Statutes 84-114; and

(15) the Department of Revenues created by Section 2 of Act 88 of 1925, as amended, the same being Arkansas Statutes 84-1701, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905.

SECTION 4. The following State agencies shall terminate on June 30, 1981;

(a) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Education:

(1) the Early Childhood Development Program, created by Section 1 of Act 63 of 1969, as amended, the same being Arkansas Statutes 80-1694;

(2) the Board of Education, created by Section 3 of Act 169 of 1931, the same being Arkansas Statutes 80-102;

(3) the Arkansas Fire Protection Personnel Standards and Education Commission, created by Section 3 of Act 483 of 1975, the same being Arkansas Statutes 19-2153;

(4) the Pupil Discipline in Public Schools Commission, created by

Section 1 of Act 214 of 1975;

(5) the School Self-Insurance Advisory Committee, created by Section 4 of Act 380 of 1973, the same being Arkansas Statutes 80-3512;

(6) the School Self-Insurance Program, created by Section 6 of Act 380 of 1973, the same being Arkansas Statutes 80-3514;

(7) the Library Building Commission, created by Section 2 of Act 341 of 1969;

(8) the Education Commission of the States, created by Section 1 of Act 22 of 1965 (Second Extraordinary Session), as amended, the same being Arkansas Statutes 80-4501;

(9) the Student Loan Board, created by Section 3 of Act 884 of 1975, the same being Arkansas Statutes 80-4018;

(10) the Student Loan Guarantee Program, created by Section 2 of Act 27 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 80-4013;

(11) the State Board of Higher Education, formerly the Commission on Coordination of Higher Educational Finance, created by Section 2 of Act 287 of 1971, the same being Arkansas Statutes 80-3349;

(12) the Department of Education, created by Section 9 of Act 38 of 1971, the same being Arkansas Statutes 5-909; and

(13) the Division of Community Junior Colleges within the Department of Higher Education, created by Section 6 of Act 287 of 1971, the same being Arkansas Statutes 80-3353.

(b) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Public Health, Welfare, and Labor:

(1) the Department of Health created by Section 11 of Act 38 of 1971, the same being Arkansas Statutes 5-911;

(2) the State Cancer Commission, created by Section 1 of Act 277 of 1945, as amended, the same being Arkansas Statutes 82-601, which was transferred to the Chronic Disease Division of the Department of Health by Section 11 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-911;

(3) the Office of Alcohol Abuse and Alcoholism, created by Section 3 of Act 50 of 1973, the same being Arkansas Statutes 83-720;

(4) the Disability Determination for Social Security Administration, created by Section 1 of Act 14 of 1961 (Second Extraordinary Session), the same being Arkansas Statutes 83-801;

(5) the Community Based Rehabilitation Council, created by Section 3 of Act 378 of 1975, the same being Arkansas Statutes 43-2341;

(6) the Alcohol Abuse Advisory Council, created by Section 4 of Act 50 of 1973, the same being Arkansas Statutes 83-721;

(7) the Division of Rehabilitative Services of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(8) the Division of Rehabilitative Services for the Blind, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(9) the State Health Planning and Development Agency, located

within the Department of Health, created by Section 1 of Act 558 of 1975, the same being Arkansas Statutes 82-3601;

(10) the Blind Advisory Committee, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(11) the Office of the Blind and Visually Impaired of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(12) the State Board of Veterinary Medical Examiners, created by Section 3 of Act 650 of 1975, the same being Arkansas Statutes 72-1134;

(13) the State Board of Sanitarians, created by Section 4 of Act 281 of 1957, the same being Arkansas Statutes 71-1604;

(14) the Psychology Examiners Board, created by Section 1 of Act 129 of 1955, the same being Arkansas Statutes 75-1501;

(15) the Board of Podiatry, created by Section 2 of Act 610 of 1923, the same being Arkansas Statutes 72-302;

(16) the Wastewater Plant Operators Licensing Committee, created by Section 2 of Act 211 of 1971, the same being Arkansas Statutes 82-1984;

(17) the Board of Pharmacy, created by Section 2 of Act 50 of 1891, the same being Arkansas Statutes 72-1002;

(18) the Board of Optometry, created by Section 2 of Act 94 of 1941, the same being Arkansas Statutes 72-802;

(19) the Inhalation Therapy Examination Committee, created by Section 3 of Act 168 of 1969, the same being Arkansas Statutes 72-1603;

(20) the Board of Hearing Aid Dispensers, created by Section 1 of Act 197 of 1969, the same being Arkansas Statutes 72-1701;

(21) the Board of Healing Arts, created by Section 3 of Act 187 of 1959, the same being Arkansas Statutes 72-123;

(22) the Board of Embalmers and Funeral Directors, created by Section 1 of Act 412 of 1957, the same being Arkansas Statutes 71-901;

(23) the Board of Dental Examiners, created by Section 2 of Act 14 of 1955, the same being Arkansas Statutes 72-535;

(24) the Board of Chiropractor Examiners, created by Section 1 of Act 26 of 1915, the same being Arkansas Statutes 72-401;

(25) the Coal Mine Examining Board, created by Section 1 of Act 486 of 1919, the same being Arkansas Statutes 52-501;

(26) the Cemetery Board, created by Section 4 of Act 250 of 1953, the same being Arkansas Statutes 82-414;

(27) the State Medical Board, created by Section 2 of Act 65 of 1955, the same being Arkansas Statutes 72-602; and

(28) the Board of Physical Therapy, created by Section 3 of Act 141 of 1959, the same being Arkansas Statutes 72-1319.

(c) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on City, County and Local Affairs:

(1) the Office of Economic Opportunity, which was transferred to the Department of Local Services by Section 1 of Act 278 of 1975, the same being Arkansas Statutes 5-904;

(2) the Department of Aeronautics, created by Section 1 of Act 457 of 1941, as amended, the same being Arkansas Statutes 74-102, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(3) the Special Committee on County Government, created by Section 1 of Act 135 of 1975; and

(4) the Municipal Corporation Board, created by Section 2 of Act 145 of 1893, as amended, the same being Arkansas Statutes 19-208.

(d) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Economic and Industrial Resources and Development:

(1) the Great River Road Division of the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907;

(2) the Arkansas Science and Technology Council, created by Section 1 of Act 535 of 1971, the same being Arkansas Statutes 6-1101;

(3) the State Forestry Commission, created by Section 1 of Act 42 of 1953, the same being Arkansas Statutes 9-701.1, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(4) the Arkansas Geological Commission, created by Section 1 of Act 16 of 1963, the same being Arkansas Statutes 9-400, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(5) the Oil and Gas Commission, created by Section 2 of Act 105 of 1939, the same being Arkansas Statutes 53-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(6) the Division of Forestry of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(7) the Division of Natural Resources of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(8) the Arkansas Commerce Commission, created by Section 2 of Act 132 of 1957, the same being Arkansas Statutes 73-152, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(9) the Arkansas Historical Preservation Program, created by Section 1 of Act 368 of 1969, the same being Arkansas Statutes 8-901, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(10) the Arkansas Commemorative Commission, created by Section 1 of Act 256 of 1947, the same being Arkansas Statutes 8-201, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907, which was transferred to the Department of Arkansas Natural and Cultural

Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(11) the Arkansas Museum and Cultural Commission, created by Section 1 of Act 515 of 1971, the same being Arkansas Statutes 6-1202;

(12) the Arts and Humanities Advisory Council of the Department of Local Services, created by Section 3 of Act 359 of 1971, the same being Arkansas Statutes 6-1003;

(13) the State Committee on Stream Preservation, created by Section 1 of Act 437 of 1967, the same being Arkansas Statutes 9-1201, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(14) the Natural Heritage Commission, created by Section 4 of Act 112 of 1973, the same being Arkansas Statutes 9-1404;

(15) the Department of Natural and Cultural Heritage, created by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(16) the Environmental Preservation Commission, created by Section 4 of Act 112 of 1973, the same being Arkansas Statutes 9-1404, which was transferred to the Arkansas Natural Heritage Commission by Section 1 of Act 227 of 1975, the same being Arkansas Statutes 9-1404.1;

(17) the Arkansas Natural and Cultural Heritage Advisory Committee, created by Section 5 of Act 1001 of 1975, the same being Arkansas Statutes 5-925;

(18) the Office of the Arkansas State Arts and Humanities of the Department of Planning, created by Section 3 of Act 359 of 1971, the same being Arkansas Statutes 6-1003, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(19) the Board of Registration for Foresters, created by Section 4 of Act 535 of 1969, as amended, the same being Arkansas Statutes 71-2404; and

(20) the War Decoration Commission, created by Section 1 of Act 172 of 1943, the same being Arkansas Statutes 11-1601.

(e) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Judiciary:

(1) the Judicial Department, created by Section 1 of Act 496 of 1965, as amended, the same being Arkansas Statutes 22-142;

(2) the Justice Building Commission, created by Section 2 of Act 375 of 1955, as amended, the same being Arkansas Statutes 5-602;

(3) the Commission on Uniform State Laws, created by Section 1 of Act 159 of 1945, as amended, the same being Arkansas Statutes 6-401;

(4) the Information Practices Board, created by Section 4 of Act 730 of 1975, the same being Arkansas Statutes 16-804;

(5) the Investigator Licensing Board, created by Section 2 of Act 447

of 1965, the same being Arkansas Statutes 71-2102;

(6) the Alcoholic Beverage Control Board, created by Section 2 of Act 113 of 1955, the same being Arkansas Statutes 48-1302.1; and

(7) the Prosecution Coordination Commission, created by Section 2 of Act 925 of 1975, the same being Arkansas Statutes 24-127.

(f) The following State agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on State Agencies and Governmental Affairs:

(1) the Arkansas State Board of Public Accountancy, created by Section 2 of Act 160 of 1975, the same being Arkansas Statutes 71-612;

(2) the Revenue Department Building Commission, created by Section 2 of Act 38 of 1961 (First Extraordinary Session), as amended, the same being Arkansas Statutes Title 13 Appendix 12;

(3) the Soybean Promotion Board, created by Section 2 of Act 259 of 1971, the same being Arkansas Statutes 77-2002;

(4) the Saint Francis Levee District, created pursuant to Section 1 of Act 75 of 1929, as amended, the same being Arkansas Statutes 21-644;

(5) the Southern Interstate Nuclear Board, created by Section 1 of Act 429 of 1961, as amended, the same being Arkansas Statutes 9-1101;

(6) the Information Systems Executive Committee, created by Section 1 of Act 744 of 1975, the same being Arkansas Statutes 5-927;

(7) the Crime and Law Enforcement Commission, created by Executive Order 75-1;

(8) the Office on Aging, as transferred to the Department of Social Rehabilitative Services by Section 4 of Act 38 of 1971, the same being Arkansas Statutes 5-904 (1973 Suppl.);

(9) the Arkansas Veterans Service Office, created by Section 1 of Act 234 of 1945, the same being Arkansas Statutes 11-1401;

(10) the Arkansas Veterans Child Welfare Service, created by Section 1 of Act 189 of 1969, the same being Arkansas Statutes 11-1409;

(11) the Air National Guard, created by Section 23 of Act 50 of 1969, as amended, the same being Arkansas Statutes 11-203;

(12) the Board of Registration for Professional Engineers and Land Surveyors, created by Section 3 of Act 202 of 1925, as amended, the same being Arkansas Statutes 71-1003;

(13) the Office of the Adjutant General, created by Section 10 of Act 50 of 1969, as amended, the same being Arkansas Statutes 11-110;

(14) the Arkansas Wing of the Civil Air Patrol, as transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(15) the State Militia, created by Section 2 of Act 85 of 1929, as amended, the same being Arkansas Statute 11-102, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914; and

(16) the Office of Emergency Services, created by Section 5 of Act 511 of 1973, the same being Arkansas Statutes 11-1938.

(17) the Arkansas Police Commission created by Section 2 of Act 231 of 1945, as amended, the same being Arkansas Statutes 42-420.

SECTION 5. The following State agencies shall terminate on June 30, 1983:

(a) The following State agencies, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on Education:

(1) the Advisory Council for Vocational-Technical Education, created by Section 1 of Act 483 of 1973, the same being Arkansas Statutes 80-2570;

(2) the Advisory Committee of the State Board of Education, created by Section 3 of Act 416 of 1965, as amended, the same being Arkansas Statutes 80-4302;

(3) the Quapaw Vocational-Technical School; the Pines Vocational-Technical School; the Rich Mountain Vocational-Technical School; the Southwest Vocational-Technical School; the Twin Lakes Vocational-Technical School; the White River Vocational-Technical School; the Northwest Vocational-Technical School; the Gateway Vocational-Technical School; the Petit Jean Vocational-Technical School; the Ozarka Vocational-Technical School; the Ouachita Vocational-Technical School; the Oil Belt Vocational-Technical School; the Little Rock Vocational-Technical School; the Great Rivers Vocational-Technical School; the Forest Echoes Vocational-Technical School; the Arkansas Valley Vocational-Technical School; the Black River Vocational-Technical School; the Cossatot Vocational-Technical School; the Cotton Boll Vocational-Technical School; the Crowley's Ridge Vocational-Technical School; the Delta Vocational-Technical School; the Foothills Vocational-Technical School; the Rice Belt Vocational-Technical School; and the Red River Vocational-Technical School, as authorized by Section 3 of Act 328 of 1957, as amended, the same being Arkansas Statutes 80-2559;

(4) the Westark Community College and the Phillips County Community College, authorized by Section 5 of Act 103 of 1973, as amended, the same being Arkansas Statutes 80-4205;

(5) the Arkansas Illiteracy Commission, created by Section 20 of Act 169 of 1931, the same being Arkansas Statutes 80-116;

(6) the Arkansas Advisory Council on Public Elementary and Secondary Education, created by Section 1 of Act 76 of 1963, the same being Arkansas Statutes 80-4101;

(7) the Arkansas Council on Children and Youth, created by Section 1 of Act 367 of 1947, the same being Arkansas Statutes 83-501;

(8) the Advisory Council for Education of the Handicapped, created by Section 15 of Act 102 of 1973, as amended, the same being Arkansas Statutes 80-2129;

(9) the Arkansas Post-Secondary Education Planning Commission, created by Section 1 of Act 926 of 1975, the same being Arkansas Statutes 80-3349.1; and

(10) the Library Board, created by Section 5 of Act 244 of 1927, as amended, the same being Arkansas Statutes 17-1005.

(b) The following State agencies, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on Public Health,

Welfare, and Labor:

(1) the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(2) the Division of Social Services of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(3) the State Hospital Board, created by Section 1 of Act 433 of 1971, the same being Arkansas Statutes 59-201, which was transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(4) the Arkansas Children's Colony Board, created by Section 2 of Act 6 of 1955, the same being Arkansas Statutes 59-1102, and the Arkansas Children's Colony at Conway, McRae, Arkadelphia, Jonesboro, Booneville, and Warren, created pursuant to Section 1 of Act 186 of 1963, the same being Arkansas Statutes 59-1117, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(5) the Arkansas Department of Mental Retardation and the Arkansas Board of Mental Retardation, created by Section 2 of Act 265 of 1969, the same being Arkansas Statutes 59-1002, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(6) the Division of Rehabilitation of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(7) the State Department of Public Welfare, and the Board of Public Welfare, created by Section 2 of Act 280 of 1939, as amended, the same being Arkansas Statutes 83-102, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(8) the Rehabilitation Service, created by Section 5 of Act 43 of 1955, as amended, the same being Arkansas Statutes 80-2544, and the Rehabilitation Services for the Blind, created by Section 1 of Act 180 of 1965, as amended, the same being Arkansas Statutes 80-2566, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(9) the Arkansas Juvenile Training School Department, and the Arkansas Juvenile Training School Board, created by Section 2 of Act 20 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 46-302, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(10) the Division of Mental Retardation and Developmental Disabilities Services of the Department of Social and Rehabilitative

Services, created by Section 2 of Act 340 of 1975, the same being Arkansas Statutes 5-912.2; and

(11) the State Board of Health, created by Section 1 of Act 96 of 1913, as amended, the same being Arkansas Statutes 82-101, which was transferred to the Department of Health by Section 11 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-911.

(12) the State Medical Examiner Commission, created by Section 1 of Act 321 of 1969, the same being Arkansas Statutes 42-611;

(13) the Board of Massage, created by Section 6 of Act 180 of 1951, the same being Arkansas Statutes 72-1205;

(14) the Radiation Control Agency, created by Section 4 of Act 8 of 1961 (2d Ex. Sess.), as amended, the same being Arkansas Statutes 82-1515;

(15) the Board of Examiners in Speech Pathology and Audiology, created by Section 4 of Act 277 of 1975, the same being Arkansas Statutes 72-1803;

(16) the Medical Services Advisory Commission, created by Section 1 of Act 372 of 1965, the same being Arkansas Statutes 7-601;

(17) the Mobile Home Commission, created by Section 14 of Act 510 of 1973, as amended, the same being Arkansas Statutes 82-3014;

(18) the Employment Security Advisory Council, created by Section 11 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1114;

(19) the State Board of Cosmetology, created by Section 2 of Article 1 of Act 358 of 1955, as amended, the same being Arkansas Statutes 71-815;

(20) the Social Work Registration Board, created by Section 2 of Act 899 of 1975, the same being Arkansas Statutes 71-2801;

(21) the Barber Examiners' Board, created by Section 15 of Act 313 of 1937, as amended, the same being Arkansas Statutes 71-515;

(22) the State Board of Nursing, created by Section 3 of Act 462 of 1971, the same being Arkansas Statutes 72-747;

(23) the Plumber Licensing Division of the State Board of Health, created by Section 2 of Act 200 of 1951, as amended, the same being Ark. Stat. 71-1206;

(24) the Plumbers Committee of Examiners created by Section 3 of Act 200 of 1951, as amended, the same being Ark. Stat. 71-1207;

(25) the Arkansas Rural Medical Practice Student Loan and Scholarship Board created by Section 1 of Act 131 of 1949, as amended, the same being Arkansas Statutes 80-2908; and

(26) the Committee on Water Well Construction created by Section 5 of Act 641 of 1969, the same being Arkansas Statutes 21-2005.

(c) The following State agencies, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on Economic and Industrial Resources and Development:

(1) the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(2) the Division of Finance of the Department of Commerce, created

by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(3) the State Energy Office, created by Executive Order 73-11;

(4) the Division of Land Surveys of the State Land Commission, created by Section 1 of Act 458 of 1973, the same being Arkansas Statutes 10-1301, which was transferred to the Department of Commerce by Section 1 of Act 579 of 1975, the same being Arkansas Statutes 10-1313;

(5) the Interstate Oil Compact Commission, created by Section 2 of Act 86 of 1941, as amended, the same being Arkansas Statutes 53-802;

(6) the Land Survey Advisory Board, created by Section 4 of Act 458 of 1973, the same being Arkansas Statutes 10-1304;

(7) the Department of Industrial Development, created by Section 6 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-906;

(8) the Overseas Program of the Department of Industrial Development, created by Section 2 of Act 1015 of 1975 (1976 Extended Session), the same being Arkansas Statutes 9-513.1;

(9) the Arkansas Industrial Development Commission, created by Section 1 of Act 404 of 1975, the same being Arkansas Statutes 9-505; and

(10) the Soil and Water Conservation Commission, created by Section 1 of Act 14 of 1963, as amended, the same being Arkansas Statutes 9-118.

(d) The following State agencies, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on State Agencies and Governmental Affairs:

(1) the Board of Registration of Professional Soil Classifiers, created by Section 1 of Act 460 of 1975, the same being Arkansas Statutes 71-2701;

(2) the Contractors' Licensing Board, created by Section 2 of Act 150 of 1965, the same being Arkansas Statutes 71-702;

(3) the Capitol Art Commission, created by Section 1 of Act 22 of 1911, the same being Arkansas Statutes 5-216;

(4) the State Board of Collection Agencies, created by Section 3 of Act 145 of 1965, the same being Arkansas Statutes 71-2003;

(5) the Consumer Advisory Board, created by Section 3 of Act 92 of 1971, the same being Arkansas Statutes 70-903;

(6) the Advisory Committee for Registration of Landscape Architects, created by Section 3 of Act 353 of 1975, the same being Arkansas Statutes 71-2902;

(7) the Arkansas State Board of Architects, created by Section 1 of Act 270 of 1941, as amended, the same being Arkansas Statutes 71-301;

(8) the Abstractors Board of Examiners, created by Section 3 of Act 109 of 1969, the same being Arkansas Statutes 71-111;

(9) the Emergency Services Advisory Council, created by section 6 of Act 511 of 1973, the same being Arkansas Statutes 11-1939;

(10) the Real Estate Commission, created by Section 3 of Act 148 of 1929, as amended, the same being Arkansas Statutes 71-1303;

(11) the Athletic Commission, created by Section 2 of Act 131 of 1927, the same being Arkansas Statutes 84-2903;

(12) the State Employees' Insurance Advisory Committee, created by Section 1 of Act 48 of 1972 (Ex. Session), the same being Arkansas Statutes 12-3101;

(13) the Surveying Commission, created by Section 1 of Act 363 of 1969, the same being Arkansas Statutes 6-901; and

(14) the Election Commissioners' Board, created by Section 2 of Article 5 of Act 465 of 1969, the same being Arkansas Statutes 3-502.

SECTION 6. Any State agency scheduled for termination under the provisions of this Act may be continued or re-established by the General Assembly by the adoption of a law providing for the re-establishment thereof.

SECTION 7. The Division of Legislative Audit shall cause to be conducted a performance audit of each State agency and the respective divisions and programs thereof, which are scheduled for termination under this Act. The performance audit shall be completed at least three (3) months prior to the time established by this Act for the termination of the State agency. In conducting the audit, the Division of Legislative Audit shall take into consideration, but shall not be limited to, the factors listed in Section 8 of this Act. Upon completion of the audit report, the Division of Legislative Audit shall present copies thereof to the members of the appropriate Joint Interim Committee which has the State agency under review, and shall make itself available to such Committee for the purpose of reviewing the audit report.

If the Joint Interim Committees to which State agencies are referred for review under the provisions of this Act shall specifically request in writing a report from the Governor containing his recommendations for continuation, abolition, or modification of each of the State agencies and the divisions and programs thereof, which are under consideration by the Joint Interim Committees, failure by the Governor to file such a report with the Committees shall not prohibit the Committees from proceeding with their duties under this Act.

SECTION 8. Prior to termination, continuation, or re-establishment of any State agency, the Joint Interim Committee which is assigned the responsibility for reviewing such State Agency and the various divisions and programs thereof, shall hold one or more public hearings and receive testimony from the public and the Executive Director or administrative head of the State Agency, including such division directors or other employees thereof as the Committee may deem appropriate, and in such a hearing the State agency shall have the burden of demonstrating a public need for its continued existence and shall cooperate with the Committee in determining such changes, modifications, or revisions in the role, duties, and purposes of the agency which might promote the efficiency of the administration or operation of the agency, if continued.

In such hearings, the determination made by the respective Joint Interim Committee as to whether a State agency assigned to it for

review has demonstrated a public need for its continued existence, shall take into consideration the following factors, among others:

(a) the extent to which the State agency and the respective divisions, programs, and services thereof have served the public as intended by law;

(b) the extent to which the State agency has complied with the laws and statutes defining its powers and duties;

(c) the extent to which the State agency's operations have been impeded or enhanced by existing statutes, procedures, and practices of the State of Arkansas, or of other State agencies, and any other circumstances, including budgetary, resources, and personnel matters, which may have adversely affected the agency's operation;

(d) the extent to which the State agency has complied with the Administrative Procedures Act in the promulgation of rules and regulations and the giving of notice and holding of formal hearings on all matters covered by the State Administrative Procedures Act;

(e) the extent to which public representation is provided by law on the various boards and commissions which regulate the various occupational and professional licensing boards and other regulatory agencies, and the extent to which public input is utilized;

(f) the extent to which State agencies have encouraged participation by the public in making its rules and decisions, as opposed to participation solely by persons it regulates; and

(g) the extent and efficiency with which public complaints filed with a State agency have been processed by the State agency and its personnel, and by other applicable departments of State government, to determine whether the agency is satisfactorily rendering service to the public with respect to formal and informal complaints.

SECTION 9. (a) In the event an agency shall cease to exist pursuant to this Act, the laws governing its powers, duties, and functions are not repealed, but shall be administered by some other State agency, if so designated by the General Assembly, unless the General Assembly specifically repealed the laws establishing such powers, duties, and functions.

(b) In the event the General Assembly shall enact laws continuing the existence of an agency which, under the provisions of this Act, would have terminated without such extension, said agency shall continue to perform the functions, powers, and duties imposed upon such agency by the laws of this State, unless said laws have been specifically amended or repealed or the powers, duties, and functions were transferred to another State agency.

SECTION 10. This act shall not cause the dismissal of claims of the public or individuals against any State agency, or any claim or right of a State agency terminated pursuant to this Act which is subject to litigation.

SECTION 11. Each of the respective Joint Interim Committees of the General Assembly assigned the responsibility for reviewing State agencies which are scheduled to terminate on or before June 30 of the

year in which the regular session of the General Assembly convenes, shall conclude their studies and file recommendations with the Joint Interim Committee on State Agencies and Governmental Affairs, on or before September 1 of the year preceding the convening of the next regular session of the General Assembly, containing the recommendations of the Committee with respect to those State agencies which, in the opinion of the Committee should be continued. Such recommendations shall be one of the following: 1) that the State agency be continued; 2) that the State agency be continued, but that its duties be revised or it be consolidated with some other agency; or 3) that the State agency be terminated by law. Provided, that if the Committee does not make a recommendation with respect to a State agency, such action shall be construed as a recommendation that the State agency terminate. In the event the Joint Interim Committee shall recommend that the State agency be continued, but that its duties be revised or that it be consolidated with some other State agency, the report of the Committee shall specifically outline recommendations on consolidation recommended by the Committee.

Upon receipt of the reports of the respective Joint Interim Committees, the Joint Interim Committee on State Agencies and Governmental Affairs shall consolidate all such reports and shall review the same and hold additional hearings, if the Joint Interim Committee on State Agencies and Governmental Affairs determines the same is necessary, to enable said Committee to file a consolidated report with the next regular session of the General Assembly outlining the findings and recommendations of the respective Joint Interim Committees, including such additional recommendations that the Joint Interim Committee on State Agencies and Governmental Affairs shall deem appropriate. The consolidated report of the Joint Interim Committee on State Agencies and Governmental Affairs shall be filed with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and each member of the House of Representatives and Senate, the Governor, and the Secretary of State.

SECTION 12. The Bureau of Legislative Research of the Arkansas Legislative Council shall provide staff, secretarial, and technical assistance to the Joint Interim Committees in making the studies and reviews of the respective State agencies scheduled for termination under the provisions of this Act.

APPROVED: February 3, 1977.

2. ACTS 1977 (1ST EX. SESS.), No. 12.

SECTION 1. That Section 7 of Act 100 of 1977 is hereby amended to read as follows:

Section 7. The Division of Legislative Audit shall cooperate with the various Joint Interim Committees in making performance audits and/or providing summary audit information that may be requested by the several Joint Interim Committees in connection with their study

and review of the various State agencies enumerated in Sections 3 through 5 of this Act. Each Joint Interim Committee requesting performance audits shall submit its request to the Legislative Auditor, and if the Legislative Auditor determines that there are more requests for performance audits than can be undertaken and completed by the available Auditing staff, he shall submit such request to the Legislative Joint Auditing Committee, and said Committee shall instruct the Legislative Auditor with respect to the performance audits to be undertaken and the priorities thereof. Upon completion of performance audits and/or summary audit reports requested by the respective Joint Interim Committees, the Division of Legislative Audit shall present copies thereof to the appropriate Joint Interim Committee which has the State agency under review, and shall make itself available to such Committee for the purpose of reviewing the audit reports and/or information.

If the Joint Interim Committees to which State agencies are referred for review under the provisions of this Act shall specifically request in writing a report from the Governor containing his recommendations for continuation, abolition, or modification of each of the State agencies and the divisions and programs thereof, which are under consideration by the Joint Interim Committees, failure by the Governor to file such a report with the Committees shall not prohibit the Committees from proceeding with their duties under this Act.

SECTION 2. EMERGENCY. It is hereby found and determined that Act 100 of 1977 mandated the Division of Legislative Audit to make performance audits of the various State agencies to be reviewed by the several Joint Interim Committees under the provisions of said Act 100; that approximately one hundred twenty (120) State agencies are to be reviewed by the Joint Interim Committees during the 1977-78 biennium, and it will be impossible for the staff of the Division of Legislative Audit to make performance audits of each of these agencies; and that the immediate passage of this Act is necessary to amend Section 7 of Act 100 of 1977 to permit the Division of Legislative Audit to make performance audits when requested by the respective Joint Interim Committees, and to furnish other audit information upon request, yet relieving the Division of Legislative Audit of the responsibility of making performance audits on all such agencies; and that the immediate passage of this Act is necessary to accomplish such purpose and to expedite the work of the Joint Interim Committees during the current biennium. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

APPROVED: August 15, 1977.

3. Acts 1979, No. 683.

SECTION 1. PURPOSE. In the passage of this Act, the General Assembly is cognizant of the intent of Section 3 of Act 100 of 1977,

which provided for the termination of a number of State agencies on June 30, 1979, unless studies of said State agencies by Joint Interim Committees of the General Assembly, who were assigned in said Section 3 to make "Sunset reviews" of said agencies, determine that the continuation of certain said State agencies is in the public interest. During the interim between the adoption of Act 100 of 1977, and the convening of the 1979 Regular Session of the General Assembly, the respective Joint Interim Committees of the General Assembly have made studies and review of the purposes, activities, justifications, and needs for each of the State agencies enumerated in Section 3 of 1977, and have recommended the continuation of a number of said State agencies. It is, therefore, the purpose of this Act to provide for the continuation of certain of said State agencies, as enumerated in this Act, subsequent to June 30, 1979, and to provide that the provisions of Section 3 of Act 100 of 1977, which would have provided for the termination of the State agencies enumerated herein on June 30, 1979, shall be of no effect, and that said State agencies be continued, and shall continue to function the same as if the provisions of Section 3 of Act 100 of 1979, which provided for their termination, had never been enacted.

SECTION 2. The following State agencies which under the provisions of Section 3 of Act 100 of 1977, were scheduled to terminate on June 30, 1979, are hereby continued, and said State agencies shall continue to function, and shall perform the respective powers, functions and duties assigned to them by law from and after June 30, 1979, the same as they would have functioned if Section 3 of Act 100 of 1977 had never been enacted:

(1) the Arkansas Library Commission, created by Section 1 of Act 139 of 1935, as amended, the same being Arkansas Statutes 6-301, as transferred to the Library Division of the Department of Education by Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910, and the Library Division of the Department of Education, created by Section 10 of Act 38 of 1971;

(2) the Arkansas School for the Blind, created by Section 1 of Act 64 of 1879, as amended, the same being Arkansas Statutes 80-2201;

(3) the Arkansas School for the Deaf, created by Section 1 of Act 36 of 1868, as amended, the same being Arkansas Statutes 80-2301;

(4) the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf, created by Section 2 of Act 1 of 1943, as amended, the same being Arkansas Statutes 7-201;

(5) the Educational Television Commission, created by Section 1 of Act 198 of 1961, the same being Arkansas Statutes 80-3901, as transferred to the Educational Television Division of the Department of Education by Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910, and the Educational Television Division of the Department of Education, created by Section 10 of Act 38 of 1971;

(6) the Board for Vocational Education, created by Section 187 of Act 169 of 1931, the same being Arkansas Statutes 80-2514;

(7) the Cooperative Area Manpower Planning System, created by Executive Order 73-1;

(8) the Liquefied Petroleum Gas Board, created by Section 1 of Act 31 of 1965, the same being Arkansas Statutes 53-701, and the Liquefied Petroleum Gas Advisory Committee, created by Section 5 of Act 31 of 1965, the same being Arkansas Statutes 53-704;

(9) the Employment Security Division of the Department of Labor, created by Section 10 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1113;

(10) the Labor Board, created by Section 5 of Act 25 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 81-323;

(11) the Department of Labor, created by Section 2 of Act 161 of 1937, as amended, the same being Arkansas Statutes 5-915;

(12) the Office of the State Mine Inspector, created by Section 1 of Act 130 of 1917, as amended, the same being Arkansas Statutes 52-401, and as transferred to the Department of Labor by Section 15 of Act 38 of 1971, the same being Arkansas Statutes 5-915;

(13) the Board of Review, created by Section 6 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1107;

(14) the State Advisory Council to the Employment Security Division of the Department of Labor, created by Section 11 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1114;

(15) the Elevator Safety Board, created by Section 2 of Act 189 of 1963, as amended, the same being Arkansas Statutes 82-1802;

(16) the Boiler Advisory Board, created by Section 2 of Act 494 of 1961, as amended, the same being Arkansas Statutes 81-502;

(17) the Arkansas Employment Agency Advisory Council, created by Section 3 of Act 493 of 1975, the same being Arkansas Statutes 81-1015;

(18) the Boiler Inspection Division of the Department of Labor, created by Section 1 of Act 494 of 1961, the same being Arkansas Statutes 81-501;

(19) the State Kidney Disease Commission, created by Section 2 of Act 450 of 1971, the same being Arkansas Statutes 82-2502;

(20) the State Spinal Cord Commission, created by Section 2 of Act 311 of 1975, the same being Arkansas Statutes 82-3302;

(21) the Pollution Control Commission, created by Section 3 of Act 472 of 1949, as amended, the same being Arkansas Statutes 82-1903, transferred to the Department of Pollution Control and Ecology by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908, and the Department of Pollution Control and Ecology created by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908.

(22) the Environmental Preservation Division of the Department of Pollution Control and Ecology, created by Section 8 of Act 38 of 1971, the same being Arkansas Statutes 5-908;

(23) the Division of Water Pollution Control, the Division of Air Pollution Control, the Division of Solid Waste Management, the Division of Environmental Preservation, and the Division of Administration of the Pollution Control Commission, created by Section

2 of Part I of Act 472 of 1949, as amended, the same being Arkansas Statutes 82-1903, and as transferred to the Department of Pollution Control and Ecology by Section 8 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-908;

(24) the State Health Planning Council, created by Section 3 of Act 305 of 1969, the same being Arkansas Statutes 82-2303, transferred to the Statewide Health Coordinating Council by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607; and the Statewide Health Coordinating Council, created by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607;

(25) the Nursing Home Advisory Council, created by Section 8 of Act 58 of 1969, the same being Arkansas Statutes 82-2208;

(26) the Emergency Medical Services Advisory Council, created by Section 3 of Act 435 of 1975, the same being Arkansas Statutes 82-3403;

(27) the Child Care Facility Review Board, created by Section 12 of Act 434 of 1969, as amended, the same being Arkansas Statutes 83-911;

(28) the Burial Association Board, created by Section 2 of Act 91 of 1953, the same being Arkansas Statutes 66-1802;

(29) the Arkansas Transportation Commission, formerly known as the Arkansas Commerce Commission, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916, which was transferred to the Department of Commerce by the same Act;

(30) the Arkansas Waterways Commission, created by Section 1 of Act 242 of 1967, as amended, the same being Arkansas Statutes 21-1701;

(31) the Arkansas Turnpike Authority, created by Section 2 of Act 312 of 1973, the same being Arkansas Statutes 76-2402;

(32) the Mississippi River Parkway Commission of Arkansas, created by Section 1 of Act 151 of 1961, the same being Arkansas Statutes 76-1812, which was transferred to the Department of Parks and Tourism by Section 1 of Act 496 of 1975, the same being Arkansas Statutes 5-907.1;

(33) the Division of Soil and Water Resources of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(34) the Arkansas Soil and Water Conservation Commission, created by Section 1 of Act 14 of 1963, the same being Arkansas Statutes 9-118, which was transferred to the Department of Commerce by Section 16 of Act 33 of 1971, as amended, the same being Arkansas Statutes 5-916;

(35) the Arkansas Livestock and Poultry Commission, created by Section 1 of Act 87 of 1963, the same being Arkansas Statutes 78-301, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(36) the State Plant Board, created by Section 3 of Act 414 of 1917, as amended, the same being Arkansas Statutes 77-103, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(37) the Weights and Measures Division of the State Plant Board,

created by Section 6 of Act 482 of 1963, as amended, the same being Arkansas Statutes 79-206, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(38) the Division of Livestock, Poultry, and Agriculture of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(39) the Division of Plants of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(40) the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907;

(41) the State Parks, Recreation and Travel Commission, created by Section 1 of Act 330 of 1955, as amended, the same being Arkansas Statutes 9-202, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-916;

(42) the Arkansas Territorial Capitol Restoration Commission, created by Section 2 of Act 388 of 1939, as amended, the same being Arkansas Statutes 8-102, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907, and transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(43) the Publicity Division of the Arkansas Publicity and Parks Commission, created by Section 1 of Act 310 of 1969, the same being Arkansas Statutes 9-221, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(44) the Arkansas History Commission, created by Section 1 of Act 355 of 1911, as amended, the same being Arkansas Statutes 6-201, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(45) the Monuments and Historical Sites Division of the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(46) the Police Division of the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(47) the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(48) the Law Enforcement Training Academy Division of the Department of Public Safety, created by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(49) the Police Commission, created by Section 1 of Act 394 of 1969, as amended, the same being Arkansas Statutes 42-403;

(50) the Enforcement Division of the Alcoholic Beverage Control

Commission, created by Section 18 of Act 159 of 1951, as amended, the same being Arkansas Statutes 48-1317, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(51) the State Fire Marshal Enforcement Section of the Department of Public Safety, created by Section 21 of Act 1017 of 1975 (Ext. Sess. 1976), the same being Arkansas Statutes 5-914.1;

(52) the Arkansas Law Enforcement Training Academy, created by Section 1 of Act 526 of 1963, as amended, the same being Arkansas Statutes 42-701, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914;

(53) the Department of Correction, created by Section 1 of Act 50 of 1968 (First Extraordinary Session), as amended, the same being Arkansas Statutes 46-100;

(54) the Board of Pardons and Paroles, created by Section 1 of Act 621 of 1969, as amended, the same being Arkansas Statutes 43-2802;

(55) the State Penitentiary Board, created by Section 1 of Act 208 of 1945, as amended, the same being Arkansas Statutes (1964) 43-2801, as renamed the Board of Correction by Section 2 of Act 50 of 1968 (First Extraordinary Session), as amended, the same being Arkansas Statutes 46-101;

(56) the Veterans Service Office, created by Section 1 of Act 234 of 1945, as amended, the same being Arkansas Statutes 11-1401;

(57) the State Building Services, created by Section 5 of Act 716 of 1975, the same being Arkansas Statutes 5-1022;

(58) the War Memorial Stadium Commission, created by Section 1 of Act 249 of 1947, as amended, the same being Arkansas Statutes 80-3401;

(59) the Capitol Zoning District Commission, created by Section 1 of Act 267 of 1975, the same being Arkansas Statutes 5-235;

(60) the Claims Commission, created by Section 2 of Act 276 of 1955, as amended, the same being Arkansas Statutes 13-1401;

(61) the Criminal Detention Facilities Board, created by Section 3 of Act 244 of 1973, the same being Arkansas Statutes 46-1202;

(62) the Governor's Mansion Commission, created by Section 1 of Act 400 of 1973, the same being Arkansas Statutes 12-313;

(63) the Arkansas Commission on Interstate Cooperation, created by Section 2 of Act 378 of 1951, as amended, the same being Arkansas Statutes 6-112;

(64) the Executive Committee on Law Enforcement Standards, created by Section 6 of Act 452 of 1975, the same being Arkansas Statutes 42-1005;

(65) the State Administration Department, created by Section 1 of Act 468 of 1967, the same being Arkansas Statutes 5-801, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(66) the Criminal Justice and Highway Safety Information Center, created by Section 1 of Act 286 of 1975, the same being Arkansas Statutes 5-1101;

(67) the Budget and Accounting Division; the Local Affairs and Audit Division; the Administrative Services Division; and the Purchasing Division of the State Administration Department, created by Section 3 of Act 468 of 1967, the same being Arkansas Statutes 5-803, which were transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(68) the Surplus Property Program, created by Section 1 of Act 303 of 1945, as amended, the same being Arkansas Statutes 80-732, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(69) the State Printing Board, created by Section 2 of Act 544 of 1975, as amended, the same being Arkansas Statutes 14-302;

(70) the Board of Finance, created by Section 1 of Act 338 of 1955, as amended, the same being Arkansas Statutes 13-401;

(71) the Board of Directors of the Garland Levee District, created by Act 311 of 1913;

(72) the Board of Directors of the Miller Levee District No. 2, created by Act 69 of 1911;

(73) the Board of Directors of the Red River Levee District No. 1, created by Act 97 of 1905;

(74) the Red River Commission, created by Section 1 of Act 264 of 1973, the same being Arkansas Statutes 21-1014;

(75) the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(76) the Personnel Division of the State Administration Department, created by Section 1 of Act 466 of 1967, the same being Arkansas Statutes 5-810, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(77) the Office of Telecommunications, created by Section 2 of Act 47 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 5-824, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(78) the Office of Data Processing, created by Section 2 of Act 46 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 5-820, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(79) the Older Worker Community Service Employment Program, created by Section 2 of Act 815 of 1975, the same being Arkansas Statutes 81-1502, which was transferred to the Department of Local

Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(80) the Merit Council, as referred to in Section 6 of Act 280 of 1939, as amended, the same being Arkansas Statutes 83-107;

(81) the Arkansas Racing Commission, created by Section 2 of Act 46 of 1957, as amended, the same being Arkansas Statutes 84-2728, which was transferred to the Division of Racing of the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(82) the Racing Division of the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(83) the Office of Commissioner of Revenues, created by Section 2 of Act 88 of 1925, as amended, the same being Arkansas Statutes 84-1701, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(84) the Tax Division and the Assessment Coordination Division of the Public Service Commission, which were created by Section 1 of Act 245 of 1959, as amended, the same being Arkansas Statutes 84-114;

(85) the Poison Springs State Park, created by Section 1 of Act 182 of 1961, as amended, the same being Arkansas Statutes 9-635, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-907;

(86) the Arkansas Motor Vehicle Commission, created by Section 4 of Act 388 of 1975, the same being Arkansas Statutes 75-2304.

SECTION 3. The following State Agencies, which, under the provisions of Section 3 of Act 100 of 1977, were scheduled to terminate on June 30, 1979, are hereby continued until June 30, 1981, for the purpose of enabling the appropriate Joint Interim Committee of the General Assembly, as designated below, to continue to review said agencies for the purpose of recommending to the 73rd General Assembly whether said state agencies should continue to function after June 30, 1981, or terminate on said date as provided herein:

(a) The following State Agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Education:

(1) the State Department of Education and the State Board of Education, created by Section 3 of Act 169 of 1931, as amended, the same being Arkansas Statutes 80-102, which were transferred to the Department of Education under the provisions of Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910.

(b) The following State Agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on City, County and Local Affairs:

(1) the Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(2) the Local Services Advisory Council, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(3) the Office of Local and Regional Services within the Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(4) the Health Planning Program of the Office of the Governor, transferred to the Department of Planning by Section 4 of Act 38 of 1971, the same being Arkansas Statutes (1973 Suppl.) 5-904, which was transferred to the Department of Local Services by Section 1 of Act 278 of 1975, the same being Arkansas Statutes (1976) 5-904;

(5) the Comprehensive State Health Planning Agency, created by Section 1 of Act 305 of 1969, the same being Arkansas Statutes 82-2301, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904, and which was transferred to the State Health Planning and Development Agency by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607; and

(6) the Health Planning Advisory Council, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904.

(c) The following State Agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Judiciary:

(1) the Alcoholic Beverage Control Division of the Department of Finance and Administration, formerly the Department of Alcoholic Beverage Control, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(2) the Workshop-Made Products Committee, created by Section 1 of Act 405 of 1973, as amended, the same being Arkansas Statutes 14-229; and

(d) The following State Agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on State Agencies and Governmental Affairs:

(1) the Department of Alcoholic Beverage Control, created by Section 1 of Act 159 of 1951, as amended, the same being Arkansas Statutes 48-1301, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(2) the Alcoholic Beverage Control Division of the Department of Finance and Administration, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(e) The following State Agencies, to be terminated on June 30, 1981, shall be reviewed by the Joint Interim Committee on Public Retirement and Social Security Programs:

(1) the Arkansas Highway Retirement System, created by Section 2 of Act 454 of 1949, as amended, the same being Arkansas Statutes 76-1902;

(2) the Arkansas Teacher Retirement System, created by Section 16 of Act 93 of 1957, as amended, the same being Arkansas Statutes 80-1436;

(3) the State Police Retirement System, created by Section 1 of Act

311 of 1951, as amended, the same being Arkansas Statutes 42-451;

(4) the Arkansas Judicial Retirement System, created by Section 2 of Act 365 of 1953, as amended, the same being Arkansas Statutes 22-902;

(5) the Arkansas Quasi-Judicial Retirement System, created by Section 1 of Act 148 of 1965, as amended, the same being Arkansas Statutes 12-2701;

(6) the State Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(7) the County Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(8) the Municipal Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(9) the Non-Teacher Public School Employees Division of the Public Employees Retirement System; created by Section 1 of Act 63 of 1965, as amended, the same being Arkansas Statutes 12-2542;

(10) the General Assembly Division of the Public Employees Retirement System, created by Section 1 of Act 202 of 1961, as amended, the same being Arkansas Statutes 12-2510.2;

(11) the Retired Constitutional Officers Division of the Public Employees Retirement System, created by Section 6 of Act 103 of 1971, the same being Arkansas Statutes 12-2511.2;

(12) the County Elected Constitutional Officers Division of the Public Employees Retirement System, created by Section 1 of Act 581 of 1973, the same being Arkansas Statutes 12-2511.5; and

(13) the Arkansas Retirement Systems Study Committee, created by Section 1 of Act 293 of 1975.

SECTION 4. That the following Subsections of Section 3 of Act 100 of 1977, as hereby repealed:

Subsection (1) of Subsection (a) of Section 3; Subsections (1), (2), (3), (4), (5), and (6) of Subsection (e) of Section 3; Subsection (7) and Subsection (13) of Subsection (g) of Section 3; Subsections (18) and (19) of Subsection (h) of Section 3; and Subsections (1) through (13) inclusive of Subsection (j) of Section 3.

SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that Section 3 of Act 100 of 1977 provided for the termination of a number of State Agencies and programs to be effective on June 30, 1979, that it was the intention of said Act that each of said agencies and programs would be reviewed in the interim between the recess and adjournment and the convening of the 72nd General Assembly by the Legislative Joint Interim Committees of the General Assembly to evaluate the purposes, duties and accomplishments of said agencies and programs with the view that the General Assembly would take action to restore and continue those agencies and programs that were needed in the public interests, that other agencies and programs would be reorganized and that other

agencies and programs would be allowed to terminate as provided by Act 100 of 1977; and, as a result of said studies during the interim prior to the convening of the 72nd General Assembly recommendations have been made to restore and continue the operations of numerous agencies and programs which were to terminate on June 30, 1979, and recommendations were made that other agencies and programs be extended for two more years for further study and to terminate on June 30, 1981 unless restored and continued by the 73rd General Assembly; that the immediate passage of this Act is necessary to restore and continue the various agencies and programs identified in this Act and that said action should be taken prior to June 30, 1979, at which time said agencies would be terminated under the provisions of Act 100 of 1977, it being the intent of this Act that the agencies and programs defined herein would continue to function. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: April 2, 1979.

4. ACTS 1981, No. 883.

SECTION 1. PURPOSE. In the passage of this Act, the General Assembly is cognizant of the intent of Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979 and Section 2 of Act 1021 of 1979, which provided for the termination of a number of state agencies on June 30, 1981 unless studies of said state agencies by joint interim committees of the General Assembly, who were assigned in said Acts to make "Sunset reviews" of said agencies, determine that the continuation of certain of said state agencies is in the public interest. During the interim between the adoption of Act 100 of 1977, Act 683 of 1979 and Act 1021 of 1979, and the convening of the 1981 Regular Session of the General Assembly, the respective joint interim committees of the General Assembly have made studies and review of the purposes, activities, justifications, and needs for each of the state agencies enumerated in Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979 and Section 2 of Act 1021 of 1979, and have recommended the continuation of a number of said state agencies. It is, therefore, the purpose of this Act to provide for the continuation of certain of said state agencies, as enumerated in this Act, subsequent to June 30, 1981, and to provide that the provisions of Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979, and Section 2 of Act 1021 of 1979, which would have provided for the termination of the state agencies enumerated herein on June 30, 1981, shall be of no effect, and that said state agencies be continued, and shall continue to function the same as if the provisions of Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979 and Section 2 of Act 1021 of 1979, which provided for their termination, had never been enacted.

SECTION 2. The following state agencies which under the provisions

of Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979 and Section 2 of Act 1021 of 1979, were scheduled to terminate on June 30, 1981, are hereby continued, and said state agencies shall continue to function, and shall perform the respective powers, functions and duties assigned to them by law from and after June 30, 1981, the same as they would have functioned if Section 4 of Act 100 of 1977, Section 3 of Act 683 of 1979 and Section 2 of Act 1021 of 1979 had never been enacted:

(1) the State Department of Education and the State Board of Education, created by Section 3 of Act 169 of 1931, as amended, the same being Arkansas Statutes 80-102, which were transferred to the Department of Education under the provisions of Section 10 of Act 38 of 1971, the same being Arkansas Statutes 5-910;

(2) the Local Services Advisory Council, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(3) the Comprehensive State Health Planning Agency, created by Section 1 of Act 305 of 1969, the same being Arkansas Statutes 82-2301, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904, and which was transferred to the State Health Planning and Development Agency by Section 7 of Act 558 of 1975, the same being Arkansas Statutes 82-3607;

(4) the Health Planning Advisory Council, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(5) the Alcoholic Beverage Control Division of the Department of Finance and Administration, formerly the Department of Alcoholic Beverage Control, created by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(6) the Workshop-Made Products Committee, created by Section 1 of Act 405 of 1973, as amended, the same being Arkansas Statutes 14-229; which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(7) the Arkansas Highway Retirement System, created by Section 2 of Act 454 of 1949, as amended, the same being Arkansas Statutes 76-1902;

(8) the Arkansas Teacher Retirement System, created by Section 16 of Act 93 of 1957, as amended, the same being Arkansas Statutes 80-1436;

(9) the State Police Retirement System, created by Section 1 of Act 311 of 1951, as amended, the same being Arkansas Statutes 42-451;

(10) the Arkansas Judicial Retirement System, created by Section 2 of 365 of 1953, as amended, the same being Arkansas Statutes 22-902;

(11) the Arkansas Quasi-Judicial Retirement System, created by Section 1 of Act 148 of 1965, as amended, the same being Arkansas Statutes 12-2701;

(12) the State Division of the Public Employees Retirement System, created by Section 4 of Act 1977 of 1957, as amended, the same being

Arkansas Statutes 12-2504;

(13) the County Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(14) the Municipal Division of the Public Employees Retirement System, created by Section 4 of Act 177 of 1957, as amended, the same being Arkansas Statutes 12-2504;

(15) the Non-Teacher Public School Employees Division of the Public Employees Retirement System, created by Section 1 of Act 63 of 1965, as amended, the same being Arkansas Statutes 12-2542;

(16) the General Assembly Division of the Public Employees Retirement System, created by Section 1 of Act 202 of 1961, as amended, the same being Arkansas Statutes 12-2510.2;

(17) the Retired Constitutional Officers Division of the Public Employees Retirement System, created by Section 6 of Act 103 of 1971, the same being Arkansas Statutes 12-2511.2;

(18) the Department of Revenues, created by Section 2 of Act 88 of 1925, as amended, the same being Arkansas Statutes 84-1701, which was transferred to the Department of Finance and Administration by Section 5 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-905;

(19) the State Bank Department, created by Section 1 of Act 113 of 1913, as amended, the same being Arkansas Statutes 67-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(20) the State Banking Board, created by Section 1 of Act 60 of 1933, as amended, the same being Arkansas Statutes 67-201, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended;

(21) the State Insurance Department, created by Section 16 of Act 148 of 1959, the same being Arkansas Statutes 66-2101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(22) the Securities Division of the State Bank Department, created by Section 30 of Act 254 of 1959, as amended, the same being Arkansas Statutes 67-1262, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916, and which was further revised and separated from the State Bank Department by Act 471 of 1973;

(23) the Savings and Loan Association Board, created by Section 5 of Act 227 of 1963, as amended, the same being Arkansas Statutes 67-1805, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, the same being Arkansas Statutes 5-916;

(24) the Arkansas Public Service Commission, created by Section 1 of Act 40 of 1945, the same being Arkansas Statutes 73-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(25) the State Military Department, created by Act 85 of 1929, as

amended, which was transferred to the Department of Public Safety, as a Military Division thereof by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914, and which was reestablished as an independent State agency by Section 4 of Act 45 of 1981;

(26) the Early Childhood Development Program, created by Section 1 of Act 63 of 1969, as amended, the same being Arkansas Statutes 80-1644;

(27) the Board of Education, created by Section 3 of Act 169 of 1931, the same being Arkansas Statutes 80-102;

(28) the School Self-Insurance Advisory Committee, created by Section 4 of Act 380 of 1973, the same being Arkansas Statutes 80-3512;

(29) the School Self-Insurance Program, created by Section 6 of Act 380 of 1973, the same being Arkansas Statutes 80-3514;

(30) the Education Commission of the States, created by Section 1 of Act 22 of 1965 (Second Extraordinary Session), as amended, the same being Arkansas Statutes 80-4501;

(31) the Student Loan Guarantee Program, created by Section 2 of Act 27 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 80-4013;

(32) the State Board of Higher Education created by Section 2 of Act 560 of 1977, the same being Arkansas Statutes 80-4902;

(33) the Department of Higher Education, created by Section 9 of Act 38 of 1971, the same being Arkansas Statutes 5-909;

(34) the State Board of Chiropractic Examiners created by Section 4 of Act 706 of 1971, as amended, the same being Arkansas Statutes 72-418;

(35) the Department of Health created by Section 11 of Act 38 of 1971, the same being Arkansas Statutes 5-911;

(36) the State Cancer Commission, created by Section 1 of Act 277 of 1945, as amended, the same being Arkansas Statutes 82-601 which was transferred to the Chronic Disease Division of the Department of Health by Section 11 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-911;

(37) the Disability Determination for Social Security Administration, created by Section 1 of Act 14 of 1961 (Second Extraordinary Session), the same being Arkansas Statutes 83-801;

(38) the Commission on Community Based Rehabilitation, created by Section 3 of Act 378 of 1975, the same being Arkansas Statutes 43-2341;

(39) the Division of Rehabilitative Services of the Department of Human Services, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(40) the Division of Rehabilitation Services for the Blind, created by Section 1 of Act 180 of 1965, the same being Arkansas Statutes 80-2566, transferred to the Office of the Blind and Visually Impaired of the Department of Human Services by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(41) the State Health Planning and Development Agency, located

within the Department of Health, created by Section 1 of Act 558 of 1975, the same being Arkansas Statutes 82-2307;

(42) the Blind Advisory Committee, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(43) the Office of the Blind and Visually Impaired of the Department of Human Services, created by Section 12 of Act 38 of 1971, the same being Arkansas Statutes 5-912;

(44) the State Board of Veterinary Medical Examiners, created by Section 3 of Act 650 of 1975, the same being Arkansas Statutes 72-1134;

(45) the State Board of Sanitarians, created by Section 4 of Act 281 of 1957, the same being Arkansas Statutes 71-1604;

(46) the Psychology Examiners Board, created by Section 1 of Act 129 of 1955, the same being Arkansas Statutes 72-1501;

(47) the Board of Podiatry, created by Section 2 of Act 610 of 1923, the same being Arkansas Statutes 72-302;

(48) the Wastewater Plant Operators Licensing Committee, created by Section 2 of Act 211 of 1971, the same being Arkansas Statutes 82-1984;

(49) the Board of Pharmacy, created by Section 2 of Act 50 of 1891, the same being Arkansas Statutes 72-1002;

(50) the Board of Optometry, created by Section 2 of Act 94 of 1941, the same being Arkansas Statutes 72-802;

(51) the Board of Hearing Aid Dispensers, created by Section 1 of Act 197 of 1969, the same being Arkansas Statutes 72-1701;

(52) the Arkansas Board of Private Investigators and Private Security Agencies created by Section 4 of Act 429 of 1977, the same being Arkansas Statutes 71-2125;

(53) the Board of Dental Examiners, created by Section 2 of Act 14 of 1955, the same being Arkansas Statutes 72-535;

(54) the Coal Mine Examining Board, created by Section 1 of Act 486 of 1919, the same being Arkansas Statutes 52-501;

(55) the Cemetery Board, created by Section 4 of Act 250 of 1953, the same being Arkansas Statutes 82-414;

(56) the State Medical Board, created by Section 2 of Act 65 of 1955, the same being Arkansas Statutes 72-602;

(57) the Board of Physical Therapy, created by Section 3 of Act 141 of 1959, the same being Arkansas Statutes 72-1319;

(58) the Great River Road Division of the Department of Parks and Tourism, created by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907;

(59) the State Forestry Commission, created by Section 1 of Act 42 of 1953, the same being Arkansas Statutes 9-701.1, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(60) the Arkansas Geological Commission, created by Section 1 of Act 16 of 1963, the same being Arkansas Statutes 9-400, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(61) the Oil and Gas Commission, created by Section 2 of Act 105 of 1939, the same being Arkansas Statutes 53-101, which was transferred to the Department of Commerce by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(62) the Division of Forestry of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(63) the Division of Natural Resources of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(64) the Arkansas Commerce Commission, Arkansas Transportation Commission, created by Section 2 of Act 132 of 1957, the same being Arkansas Statutes 73-152, which was transferred to the Department of Commerce and renamed the Arkansas Transportation Commission by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(65) the Arkansas Historical Preservation Program, created by Section 1 of Act 368 of 1969, the same being Arkansas Statutes 8-901, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(66) the Arkansas Commemorative Commission, created by Section 1 of Act 256 of 1947, the same being Arkansas Statutes 8-201, which was transferred to the Department of Parks and Tourism by Section 7 of Act 38 of 1971, the same being Arkansas Statutes 5-907, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(67) the Arkansas Museum and Cultural Commission, created by Section 1 of Act 515 of 1971, the same being Arkansas Statutes 6-1202;

(68) the Arts and Humanities Advisory Council of the Department of Local Services, created by Section 3 of Act 359 of 1971, the same being Arkansas Statutes 6-1003, and transferred to the Department of Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(69) the State Committee on Stream Preservation, created by Section 1 of Act 437 of 1967, the same being Arkansas Statutes 9-1201, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923; and transferred to the Arkansas Natural and Scenic Rivers Commission within the Department of Natural Cultural Heritage by Section 3 of Act 257 of 1979, the same being Arkansas Statutes 9-1203;

(70) the Department of Natural and Cultural Heritage, created by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(71) the Arkansas Natural Heritage Commission created by Section 1 of Act 227 of 1975, the same being Arkansas Statutes 9-1404.1, formerly the Arkansas Environmental Preservation Commission

created by Section 4 of Act 112 of 1973, the same being Arkansas Statutes 9-1404;

(72) the Arkansas Natural and Cultural Heritage Advisory Committee, created by Section 5 of Act 1001 of 1975, the same being Arkansas Statutes 5-925;

(73) the Office of the Arkansas State Arts and Humanities of the Department of Planning, created by Section 3 of Act 359 of 1971, the same being Arkansas Statutes 6-1003, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904, which was transferred to the Department of Arkansas Natural and Cultural Heritage by Section 4 of Act 1001 of 1975, the same being Arkansas Statutes 5-923;

(74) the Board of Registration for Foresters, created by Section 4 of Act 535 of 1969, as amended, the same being Arkansas Statutes 71-2404;

(75) the Judicial Department, created by Section 1 of Act 496 of 1965, as amended, the same being Arkansas Statutes 22-142;

(76) the Justice Building Commission, created by Section 2 of Act 375 of 1955, as amended, the same being Arkansas Statutes 5-602;

(77) the Commission on Uniform State Laws, created by Section 1 of Act 159 of 1945, as amended, the same being Arkansas Statutes 6-401;

(78) the Alcoholic Beverage Control Board, created by Section 2 of Act 113 of 1955, the same being Arkansas Statutes 48-1302.1;

(79) the Prosecution Coordination Commission, created by Section 2 of Act 925 of 1975, the same being Arkansas Statutes 24-127;

(80) the Arkansas State Board of Public Accountancy, created by Section 2 of Act 160 of 1975, the same being Arkansas Statutes 71-612;

(81) the Revenue Department Building Commission, created by Section 2 of Act 38 of 1961 (First Extraordinary Session), as amended, the same being Arkansas Statutes Title 13 Appendix 12;

(82) the Soybean Promotion Board, created by Section 2 of Act 259 of 1971, the same being Arkansas Statutes 77-2002;

(83) the Saint Francis Levee District, created pursuant to Section 1 of Act 75 of 1929, as amended, the same being Arkansas Statutes 21-644;

(84) the Southern Interstate Nuclear Board, created by Section 1 of Act 429 of 1961, as amended, the same being Arkansas Statutes 9-1101, renamed the Southern State Energy Board by Section 1 of Act 1112 of 1979, the same being Arkansas Statutes 9-1101;

(85) the Office on Aging, as transferred to the Department of Human Services by Section 4 of Act 38 of 1971, the same being Ark. Stats. 5-904;

(86) the Arkansas Veterans Service Office, created by Section 1 of Act 234 of 1945, the same being Arkansas Statutes 11-1401; transferred to the Department of Veterans Affairs by Section 11 of Act 324 of 1979, the same being Arkansas Statutes 11-1410;

(87) the Arkansas Veterans Child Welfare Service, created by Section 1 of Act 189 of 1969, the same being Arkansas Statutes 11-1409;

(88) the Air National Guard, created by Section 23 of Act 50 of 1969, as amended, the same being Arkansas Statutes 11-203;

(89) the Board of Registration for Professional Engineers and Land Surveyors, created by Section 3 of Act 202 of 1925, as amended, the same being Arkansas Statutes 71-1003;

(90) the Office of the Adjutant General, created by Section 10 of Act 50 of 1969, as amended, the same being Arkansas Statutes 11-110;

(91) the Arkansas Wing of the Civil Air Patrol, as transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914 and transferred to the State Military Department by Section 5 of Act 45 of 1981;

(92) the State Militia, created by Section 2 of Act 85 of 1929, as amended, the same being Arkansas Statutes 11-102, which was transferred to the Department of Public Safety by Section 14 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-914 and transferred to the State Military Department by Section 5 of Act 45 of 1981;

(93) the Office of Emergency Services, created as a Division of the Department of Public Safety by Section 5 of Act 511 of 1973, the same being Arkansas Statutes 11-1938, and reestablished as a separate State agency by Section 10 of Act 45 of 1981;

(94) the Arkansas Police Commission created by Section 2 of Act 231 of 1945, as amended, the same being Arkansas Statute 42-402;

(95) the Office of Alcohol and Drug Abuse Prevention of the Department of Human Services created by Section 1 of Act 644 of 1977, the same being Arkansas Statute 82-2132, and which succeeded to the authority of the Office on Alcohol Abuse and Alcoholism created by Section 3 of 50 of 1973, the same being Arkansas Statute 83-720;

(96) the Arkansas Alcohol and Drug Abuse Advisory Council created by Section 5 of Act 644 of 1977, the same being Arkansas Statute 82-2136, and which succeeded to the authority of the Alcohol Abuse Advisory Council created by Section 4 of Act 50 of 1973, the same being Arkansas Statute 83-721;

(97) the Arkansas Crime Commission created by Section 1 of Act 558 of 1977, the same being Arkansas Statute 6-1301, and which succeeded to the authority of the Crime and Law Enforcement Commission created by Executive Order 75-1;

(98) the Arkansas Student Loan Authority created by Section 3 of Act 873 of 1977, the same being Arkansas Statute 80-4033, which succeeded to the authority of the Student Loan Board created by Section 3 of Act 884 of 1975, the same being Arkansas Statute 80-4018;

SECTION 3. The following state agencies, which, under the provisions of Section 4 of Act 100 of 1977 and Section 3 of Act 684 of 1979, were scheduled to terminate on June 30, 1979, are hereby continued until June 30, 1983, for the purpose of enabling the appropriate Joint Interim Committee of the General Assembly, as designated below, to continue to review said state agencies for the purpose of recommending to the Seventy-Fourth General Assembly

whether said state agencies should continue to function after June 30, 1983, or terminate on said date as provided herein:

(a) The following, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on Public Health, Welfare and Labor:

(1) The Inhalation Therapy Examination Committee, created by Section 3 of Act 168 of 1969, the same being Arkansas Statutes 72-1603.

(b) The following, to be terminated on June 30, 1983, shall be reviewed by the Joint Interim Committee on City, County and Local Affairs:

(1) The Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(2) The Office of Local and Regional Services within the Department of Local Services, created by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904;

(3) The Office of Economic Opportunity, which was transferred to the Department of Local Services by Section 1 of Act 278 of 1975, the same being Arkansas Statutes 5-904;

(4) The Department of Aeronautics, created by Section 1 of Act 457 of 1941, as amended, the same being Arkansas Statutes 74-102, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904.

SECTION 4. (a) The following subsections of Section 4 of Act 100 of 1977 are hereby repealed: subsections (1) and (2) of subsection (a); subsections (5) and (6) of subsection (a); subsection (8) of subsection (a); subsections (10) through (13) of subsection (a); subsections (1) through (20) of subsection (b); subsections (22) through (28) of subsection (b); subsections (1) and (2) of subsection (c); subsection (1) of subsection (d); subsections (3) through (19) of subsection (d); subsections (1) through (3) of subsection (e); subsections (5) through (7) of subsection (e); subsections (1) through (5) of subsection (f); and subsections (8) through (17) of subsection (f).

(b) The following subsections of Section 3 of Act 683 of 1979 are hereby repealed: subsection (1) of subsection (a); subsections (1) through (3) of subsection (b); subsections (5) and (6) of subsection (b); subsections (1) and (2) of subsection (c); subsections (1) and (2) of subsection (d); and subsections (1) through (12) of subsection (e).

(c) Section 2 of Act 1021 of 1979 is hereby repealed.

SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that Act 100 of 1977, Act 683 of 1979 and Act 1021 of 1979 provided for the termination of a number of State agencies and programs to be effective on June 30, 1981; that it was the intention of said Acts that each of said agencies and programs would be reviewed in the interim between the recess and adjournment and the convening of the Seventy-Third General Assembly by the Legislative Joint Interim Committees of the General Assembly to evaluate the purposes, duties and accomplishments of said agencies and programs with the view that the General Assembly would take

action to restore and continue those agencies and programs that were needed in the public interests; that other agencies and programs would be reorganized and that other agencies and programs would be allowed to terminate as provided by said Acts; and, as a result of said studies during the interim prior to the convening of the Seventy-Third General Assembly recommendations have been made to restore and continue the operations of numerous agencies and programs which were to terminate on June 30, 1981, and recommendations were made that other agencies and programs be extended for two more years for further study and to terminate on June 30, 1983 unless restored and continued by the Seventy-Fourth General Assembly; that the immediate passage of this Act is necessary to restore and continue the various agencies and programs identified in this Act and that said action should be taken prior to June 30, 1981, at which time said agencies would be terminated under the provisions of said Acts, it being the intent of this Act that the agencies and programs defined herein would continue to function. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 28, 1981.

5. Acts 1983, No. 764.

SECTION 1. PURPOSE. In the passage of this Act, the General Assembly is cognizant of the intent of Section 5 of Act 100 of 1977 and Section 3 of Act 883 of 1981, which provided for the termination of a number of state agencies on June 30, 1983 unless studies of said state agencies by joint interim committees of the General Assembly, who were assigned in said Acts to make "Sunset reviews" of said agencies, determine that the continuation of certain of said state agencies is in the public interest. During the interim between the adoption of Act 100 of 1977, and Act 883 of 1981, and the convening of the 1983 Regular Session of the General Assembly, the respective joint interim committees of the General Assembly have made studies and review of the purposes, activities, justifications, and needs for each of the state agencies enumerated in Section 5 of Act 100 of 1977, Section 3 of Act 883 of 1981, and have recommended the continuation of a number of said state agencies in their present form. It is, therefore, the purpose of this Act to provide for the continuation of certain state agencies, subsequent to June 30, 1981, and to provide that the provisions of Section 5 of Act 100 of 1977, and Section 3 of Act 883 of 1981, which would have provided for the termination of the state agencies enumerated herein on June 30, 1983, shall be of no effect, and that said state agencies be continued in their present form and under their present names, and such state agencies or their successor agencies shall continue to function the same as if the provisions of Act 100 of 1977 and Section 3 of Act 883 of 1981, which provided for the termination of the state

agencies enumerated herein, had never been enacted.

SECTION 2. The following state agencies, which under the provisions of Section 5 of Act 100 of 1977 or Section 3 of Act 883 of 1981, were scheduled to terminate on June 30, 1983, are hereby continued in their present form and under their present names, and said state agencies, or their successor agencies, shall continue to function and shall perform the respective powers, functions, and duties assigned to them by law from and after June 30, 1983, the same as they would have functioned if Act 100 of 1977 and Section 3 of Act 883 of 1981 had never been enacted:

(1) the Advisory Council for Vocational-Technical Education, created by Section 1 of Act 483 of 1973, the same being Arkansas Statutes 80-2570;

(2) the Advisory Committee of the State Board of Education, created by Section 3 of Act 416 of 1965, as amended, the same being Arkansas Statutes 80-4302;

(3) the Quapaw Vocational-Technical School; the Pines Vocational-Technical School; the Rich Mountain Vocational-Technical School; the Southwest Vocational-Technical School; the Twin Lakes Vocational-Technical School; the White River Vocational-Technical School; the Northwest Vocational-Technical School; the Gateway Vocational-Technical School; the Petit Jean Vocational-Technical School; the Ozarka Vocational-Technical School; the Ouachita Vocational-Technical School; the Oil Belt Vocational-Technical School; the Little Rock Vocational-Technical School; the Great Rivers Vocational-Technical School; the Forest Echoes Vocational-Technical School; the Arkansas Valley Vocational-Technical School; the Black River Vocational-Technical School; the Cossatot Vocational-Technical School; the Cotton Boll Vocational-Technical School; the Crowley's Ridge Vocational-Technical School; the Delta Vocational-Technical School; the Foothills Vocational-Technical School; the Rice Belt Vocational-Technical School; and the Red River Vocational-Technical School, as authorized by Section 3 of Act 328 of 1957, as amended, the same being Arkansas Statutes 80-2559;

(4) the Westark Community College and the Phillips County Community College, authorized by Section 5 of Act 103 of 1973, as amended, the same being Arkansas Statutes 80-4205;

(5) the Advisory Council for Education of the Handicapped, created by Section 15 of Act 102 of 1973, as amended, the same being Arkansas Statutes 80-2129;

(6) the Arkansas Post-Secondary Education Planning Commission, created by Section 1 of Act 926 of 1975, the same being Arkansas Statutes 80-3349.1;

(7) the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(8) the Division of Social Services of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as

amended, the same being Arkansas Statutes 5-912;

(9) the State Hospital Board, created by Section 1 of Act 433 of 1971, the same being Arkansas Statutes 59-201, which was transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(10) the Arkansas Children's Colony Board, created by Section 2 of Act 6 of 1955, the same being Arkansas Statutes 59-1102, and the Arkansas Children's Colony at Conway, McRae, Arkadelphia, Jonesboro, Booneville, and Warren, created pursuant to Section 1 of Act 186 of 1963, the same being Arkansas Statutes 59-1117, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(11) the Arkansas Department of Mental Retardation and the Arkansas Board of Mental Retardation, created by Section 2 of Act 265 of 1969, the same being Arkansas Statutes 59-1002, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(12) the Division of Rehabilitation of the Department of Social and Rehabilitative Services, created by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(13) the State Department of Public Welfare, and Board of Public Welfare, created by Section 2 of Act 280 of 1939, as amended, the same being Arkansas Statutes 83-102, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(14) the Rehabilitation Service, created by Section 5 of Act 43 of 1955, as amended, the same being Arkansas Statutes 80-2544, and the Rehabilitation Services for the Blind, created by Section 1 of Act 180 of 1965, as amended, the same being Arkansas Statutes 80-2566, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(15) the Arkansas Juvenile Training School Department, and the Arkansas Juvenile Training School Board, created by Section 2 of Act 20 of 1968 (First Extraordinary Session), the same being Arkansas Statutes 46-302, which were transferred to the Department of Social and Rehabilitative Services by Section 12 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-912;

(16) the Division of Mental Retardation and Developmental Disabilities Services of the Department of Social and Rehabilitative Services, created by Section 2 of Act 340 of 1975, the same being Arkansas Statutes 5-912.2;

(17) the State Board of Health, created by Section 1 of Act 96 of 1913, as amended, the same being Arkansas Statutes 82-101, which was transferred to the Department of Health by Section 11 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-911;

(18) the State Medical Examiner Commission, created by Section 1 of Act 321 of 1969, the same being Arkansas Statutes 42-611;

(19) the Board of Massage, created by Section 6 of Act 180 of 1951, the same being Arkansas Statutes 72-1205;

(20) the Radiation Control Agency, created by Section 4 of Act 8 of 1961 (Second Extraordinary Session), as amended, the same being Arkansas Statutes 82-1515;

(21) the Board of Examiners in Speech Pathology and Audiology, created by Section 4 of Act 277 of 1975, the same being Arkansas Statutes 72-1803;

(22) the Medical Services Advisory Commission, created by Section 1 of Act 372 of 1965, the same being Arkansas Statutes 7-601;

(23) the Mobile Home Commission, created by Section 14 of Act 510 of 1973, as amended, the same being Arkansas Statutes 82-3014;

(24) the Employment Security Advisory Council, created by Section 11 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1114;

(25) the State Board of Cosmetology, created by Section 2 of Article 1 of Act 358 of 1955, as amended, the same being Arkansas Statutes 71-815;

(26) the Social Work Registration Board, created by Section 2 of Act 899 of 1975, the same being Arkansas Statutes 71-2801;

(27) the Barber Examiners' Board, created by Section 15 of Act 313 of 1937, as amended, the same being Arkansas Statutes 71-515; and

(28) the State Board of Nursing, created by Section 3 of Act 432 of 1971, the same being Arkansas Statutes 72-747;

(29) the Plumber Licensing Division of the State Board of Health, created by Section 2 of Act 200 of 1951, as amended, the same being Arkansas Statutes 71-1206;

(30) the Plumbers Committee of Examiners created by Section 3 of Act 200 of 1951, as amended, the same being Arkansas Statutes 71-1207;

(31) the Arkansas Rural Medical Practice Student Loan and Scholarship Board, created by Section 1 of Act 131 of 1949, as amended, the same being Arkansas Statutes 80-2908; and

(32) the Committee on Water Well Construction, created by Section 5 of Act 641 of 1969, the same being Arkansas Statutes 21-2005;

(33) the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(34) the Division of Finance of the Department of Commerce, created by Section 16 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-916;

(35) the State Energy Office, created by Executive Order 73-11;

(36) the Division of Land Surveys of the State Land Commission, created by Section 1 of Act 458 of 1973, the same being Arkansas Statutes 10-1301; which was transferred to the Department of Commerce by Section 1 of Act 579 of 1975, the same being Arkansas Statutes 10-1313;

(37) the Interstate Oil Compact Commission, created by Section 2 of Act 86 of 1941, as amended, the same being Arkansas Statutes 53-802;

(38) the Land Survey Advisory Board, created by Section 4 of Act 458 of 1973, the same being Arkansas Statutes 10-1304;

(39) the Department of Industrial Development, created by Section 6 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-906;

(40) the Overseas Program of the Department of Industrial Development, created by Section 2 of Act 1015 of 1975 (1976 Extended Session), the same being Arkansas Statutes 9-513.1;

(41) the Arkansas Industrial Development Commission, created by Section 1 of Act 404 of 1975, the same being Arkansas Statutes 9-505;

(42) the Soil and Water Conservation Commission, created by Section 1 of Act 14 of 1963, as amended, the same being Arkansas Statutes 9-118;

(43) the Board of Registration of Professional Soil Classifiers, created by Section 1 of Act 460 of 1975, the same being Arkansas Statutes 71-2701;

(44) the Contractor's Licensing Board, created by Section 2 of Act 150 of 1965, the same being Arkansas Statutes 71-702;

(45) the State Board of Collection Agencies, created by Section 3 of Act 145 of 1965, the same being Arkansas Statutes 71-2003;

(46) the Consumer Advisory Board, created by Section 3 of Act 92 of 1971, the same being Arkansas Statutes 70-903;

(47) the Advisory Committee for Registration of Landscape Architects, created by Section 3 of Act 353 of 1975, the same being Arkansas Statutes 71-2902;

(48) the Arkansas State Board of Architects, created by Section 1 of Act 270 of 1941, as amended, the same being Arkansas Statutes 71-301;

(49) the Abstractors Board of Examiners, created by Section 3 of Act 109 of 1969, the same being Arkansas Statutes 71-101;

(50) the Real Estate Commission, created by Section 3 of Act 148 of 1929, as amended, the same being Arkansas Statutes 71-1303;

(51) the Athletic Commission, created by Section 2 of Act 131 of 1927, the same being Arkansas Statutes 84-2903;

(52) the State Employees' Insurance Advisory Committee, created by Section 1 of Act 48 of 1972 (Extraordinary Session), the same being Arkansas Statutes 12-3101;

(53) the Election Commissioners' Board, created by Section 2 of Article 5 of Act 465 of 1969, the same being Arkansas Statutes 3-502;

(54) the Inhalation Therapy Examination Committee, created by Section 3 of Act 168 of 1969, the same being Arkansas Statutes 72-1603;

(55) the Department of Aeronautics, created by Section 1 of Act 457 of 1941, as amended, the same being Arkansas Statutes 74-102, which was transferred to the Department of Local Services by Section 4 of Act 38 of 1971, as amended, the same being Arkansas Statutes 5-904; and

(56) the Office of Economic Opportunity, which was transferred to the Department of Local Services by Section 1 of Act 278 of 1975, the same being Arkansas Statutes 5-904.

SECTION 3. This Act shall not have the effect of recreating any agency which has been abolished before the effective date of this Act.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 5. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that Act 100 of 1977 and Act 883 of 1981 provided for the termination of a number of State agencies and programs to be effective on June 30, 1983, that it was the intention of said Acts that each of said agencies and programs would be reviewed in the interim between the recess and adjournment and the convening of the Seventy-Fourth General Assembly by the Legislative Joint Interim Committees of the General Assembly to evaluate the purposes, duties and accomplishments of said agencies and programs with the view that the General Assembly would take action to continue in their present form those agencies and programs that were needed in the public interests; that other agencies and programs would be reorganized and that other agencies and programs would be allowed to terminate as provided by said Acts; and, as a result of said studies during the interim prior to the convening of the Seventy-Fourth General Assembly recommendations have been made to continue the operations of numerous agencies and programs which were to terminate on June 30, 1983; that the immediate passage of this Act is necessary to continue the various agencies and programs identified in this Act and that said action should be taken prior to June 30, 1983, at which time said agencies would be terminated under the provisions of said Acts, it being the intent of this Act that the agencies and programs defined herein would continue to function in their present form. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 24, 1983.

TITLE 11
LABOR AND INDUSTRIAL RELATIONS
(CHAPTERS 8-14 IN VOLUME 7B)

CHAPTER.

1. GENERAL PROVISIONS. [RESERVED.]
2. DEPARTMENT OF LABOR.
3. LABOR RELATIONS AND PRACTICES.
4. WAGE AND HOUR REGULATIONS GENERALLY.
5. WORKING CONDITIONS GENERALLY.
6. CHILD LABOR.
7. REGULATION OF MINES.
8. INJURY OR DEATH OF EMPLOYEES GENERALLY.
9. WORKERS' COMPENSATION.
10. DEPARTMENT OF WORKFORCE SERVICES LAW.
11. EMPLOYMENT OFFICES AND AGENCIES.
12. EMPLOYMENT OF CHILDREN IN ENTERTAINMENT INDUSTRY.
13. CONSERVATION.
14. VOLUNTARY PROGRAM FOR DRUG-FREE WORKPLACES.

CHAPTER 1
GENERAL PROVISIONS

[Reserved]

CHAPTER 2
DEPARTMENT OF LABOR

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS MEDIATION AND CONCILIATION SERVICE NONDISCLOSURE ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 11-2-101. Purpose.
- 11-2-102. Definitions.
- 11-2-103. Exception.
- 11-2-104. Penalties.
- 11-2-105. Enforcement.
- 11-2-106. Creation.
- 11-2-107. Director — Appointment, compensation, etc.
- 11-2-108. Director — Powers and duties generally.
- 11-2-109. Director — Intervention in and

SECTION.

- arbitration of labor disputes.
- 11-2-110. Director — Rulemaking authority.
- 11-2-111. Office — Employees — Location of hearings.
- 11-2-112. Promulgation of rules.
- 11-2-113. Variation of rule due to difficulties or hardship.
- 11-2-114. Judicial review of rules.
- 11-2-115. Employer records — Inspection.

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- 11-2-116. Entry and inspection of work-place, etc.
- 11-2-117. Safe place of employment — Duties of employer and director.
- 11-2-118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.
- 11-2-119. False statements made under oath deemed perjury.

SECTION.

- 11-2-120. Annual report.
- 11-2-121. Agreements with government agencies.
- 11-2-122. Disclosure to employees — Health benefits available.
- 11-2-123. Employment training and placement programs for ex-offenders.

Cross References. Administration of act providing for payment of prevailing hourly wage by employers in public works, § 22-9-301 et seq.

Regulation of elevators, escalators, and dumbwaiters, § 20-24-101 et seq.

Effective Dates. Acts 1937, No. 161, § 26: Mar. 1, 1937. Emergency clause provided: "It is found and determined by the General Assembly that the present laws relating to labor in this State are not sufficient to meet present conditions; that in order for the State to coordinate its activities concerning labor with Federal Agencies on unemployment and security benefits, it is necessary that a Department of Labor be created with the powers and duties prescribed by this Bill; therefore, an emergency is hereby declared to exist and this Act shall take effect and be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of

1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

CASE NOTES

ANALYSIS

Construction.
Applicability.
Contractors and Subcontractors.

Instructions.

Construction.

This subchapter, being a penal measure, must be construed strictly. *Horn v.*

Shirley, 246 Ark. 1134, 441 S.W.2d 468 (1969).

Applicability.

This subchapter does not apply to mines and mining. *Barksdale v. Silica Prods. Co.*, 200 Ark. 32, 137 S.W.2d 901 (1940).

This subchapter held inapplicable where employer-employee relationship was not shown. *Horn v. Shirley*, 246 Ark. 1134, 441 S.W.2d 468 (1969).

Contractors and Subcontractors.

The enactment of the safety code was not intended to alter the existing law with respect to division of duties and responsibilities between prime and subcontractors, and an injury to an employee of a subcontractor working on property under the exclusive control of the subcontractor is not made the responsibility of the prime contractor by this subchapter. *Gordon v. Matson*, 246 Ark. 533, 439 S.W.2d 627 (1969).

Where an employee of a subcontractor brought an action against the subcontractor and contractor to recover for personal injuries sustained on the job, a Department of Labor safety consultant was not permitted to testify, for the plaintiff was not an employee of either of the defendants when he was injured. *Kennedy v. United States Constr. Co.*, 545 F.2d 81 (8th Cir. 1976).

Instructions.

By its terms, this subchapter applies only to a person having five or more employees, therefore, where there was no proof that defendant had that minimum number of employees, instruction that defendant had control of job and it was his duty to furnish plaintiff with a safe place to work was properly refused. *Richison v. Boatright*, 238 Ark. 579, 383 S.W.2d 287 (1964).

11-2-101. Purpose.

The purpose of the Department of Labor shall be to foster, promote, and develop the welfare of the wage earners of Arkansas, to improve their working conditions, and to advance their opportunities for profitable employment.

History. Acts 1937, No. 161, § 2; Pope's Dig., § 8498; A.S.A. 1947, § 81-102.

11-2-102. Definitions.

When used in this subchapter, unless the context otherwise requires:

(1)(A) "Employer" includes every person, firm, corporation, partnership, stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee.

(B) However, this subchapter shall not affect any employer engaged exclusively in farming operations, nor shall it affect employers employing fewer than five (5) persons; and

(2) "Safe" or "safety" as applied to any employment or place of employment shall include conditions and methods of sanitation and hygiene reasonably necessary for the protection of the life, health, safety, and welfare of employees or the public.

History. Acts 1937, No. 161, §§ 1, 9; Pope's Dig., §§ 8497, 8505; A.S.A. 1947, §§ 81-101, 81-108.

CASE NOTES

Employer.

The clause "persons having control or custody of any employment, place of employment, or of any employee" defining employer cannot be interpreted so that each of the three qualities of an employer is mutually exclusive. *Horn v. Shirley*, 246 Ark. 1134, 441 S.W.2d 468 (1969).

Where employee of one employer was injured while assisting employee of a second employer, second employee was not liable under this subchapter. *Horn v. Shirley*, 246 Ark. 1134, 441 S.W.2d 468 (1969).

11-2-103. Exception.

This subchapter shall not apply to mines and mining or the mining industry.

History. Acts 1937, No. 161, § 25; Pope's Dig., § 8521; A.S.A. 1947, § 81-121n.

11-2-104. Penalties.

(a) Any employer or owner who violates or fails or refuses to comply with any provision of this subchapter, any lawful order of the Director of the Department of Labor, or any judgment or decree made by any court in connection with the provisions of this subchapter for which no penalty has been otherwise provided shall be guilty of a misdemeanor.

(b) Upon conviction, the employer or owner shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100), or shall be imprisoned for a period not exceeding six (6) months, or both fined and imprisoned for each offense.

(c) Each day the violation, omission, failure, or refusal continues shall be deemed a separate offense.

History. Acts 1937, No. 161, § 21; Pope's Dig., § 8517; A.S.A. 1947, § 81-120.

CASE NOTES

Construction.

This section is penal in nature and should be strictly construed. *Gordon v.*

Matson, 246 Ark. 533, 439 S.W.2d 627 (1969).

11-2-105. Enforcement.

(a)(1) It shall be the duty of the Attorney General and the several prosecuting attorneys, upon request of the Director of the Department of Labor, or any of his or her authorized representatives, to prosecute any violation of the law that is the duty of the director to enforce.

(2) The director may, upon his or her own motion, bring all necessary suits and institute such prosecutions as may be necessary to properly

enforce this subchapter, and he or she shall not be required to give bond for cost or make appeal bonds.

(b)(1) In lieu of the penalties provided in § 11-2-104, any penalty except imprisonment may be recovered in a civil action in the name of the State of Arkansas.

(2) The civil action shall be entitled to an expeditious hearing and shall receive precedence over all other matters except older matters of the same nature.

(3) Any sums forfeited under the provisions of this section shall be deposited with the Treasurer of State in the same manner as provided by law for other moneys of the state.

History. Acts 1937, No. 161, §§ 20, 21; Pope's Dig., §§ 8516, 8517; A.S.A. 1947, §§ 81-119, 81-120.

CASE NOTES

Construction.

Subsection (b) of this section is penal in nature and should be strictly construed.

Gordon v. Matson, 246 Ark. 533, 439 S.W.2d 627 (1969).

11-2-106. Creation.

(a) A Department of Labor is created and established under the supervision and direction of a director to be known as the Director of the Department of Labor.

(b) The director may set up within the department such divisions as he or she may deem necessary for the exercise of the powers and the performance of the duties of the department, except as otherwise provided by law.

History. Acts 1937, No. 161, §§ 2, 5; Pope's Dig., §§ 8498, 8501; Acts 1941, No. 112, § 1; A.S.A. 1947, §§ 81-102, 81-105.

Publisher's Notes. Acts 1937, No. 161, § 6, provided that the Bureau of Labor and Statistics and the Commissioner of Labor and Statistics would have no further legal existence and that all powers and duties and all records, papers, files, property, unexpended funds, appropriations, and pending business would be transferred to the Department of Labor.

Acts 1943, No. 126, § 1, provided that all authority and duties of the Industrial Board provided in §§ 11-2-102, 11-2-110, 11-2-112—11-2-115, 11-2-117 would be transferred to the Director of the Department of Labor and that he or she would have the same powers and duties as those exercised by the Industrial Board.

Cross References. Department of Labor continued, § 25-12-101.

11-2-107. Director — Appointment, compensation, etc.

(a) The Governor shall appoint the Director of the Department of Labor, subject to confirmation by the Senate.

(b)(1) The director shall serve at the pleasure of the Governor.

(2) The director shall be a person who, on account of his or her previous vocation, employment, or affiliation can be classed as a representative of employees.

(3) Any individual chosen to fill a vacancy shall be appointed only for the unexpired portion of the term of the director whom he or she shall succeed, and shall have the same qualifications as the director.

(4) All appointments made while the Senate is not in regular session shall be effective *ad interim*.

(c) The director shall give a bond in the sum of two thousand dollars (\$2,000) with sureties to be approved by the Governor, conditioned for the faithful discharge of the duties of his or her office.

(d) The director shall also take the oath of office prescribed by the Constitution.

(e) The director shall provide himself or herself with a suitable seal, which shall be judicially noticed.

History. Acts 1937, No. 161, §§ 3, 18; Pope's Dig., §§ 8499, 8514; A.S.A. 1947, §§ 81-103, 81-117; Acts 1989, No. 927, § 1; 2009, No. 727, § 1.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond

program for public officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

RESEARCH REFERENCES

Ark. L. Rev. Administrative Law in Arkansas, 4 Ark. L. Rev. 107.

11-2-108. Director — Powers and duties generally.

In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the Department of Labor shall have the power, jurisdiction, and authority:

(1) To enforce all labor laws in the State of Arkansas, the enforcement of which is not otherwise specifically provided for;

(2) To administer and enforce all laws, rules, and regulations that are the duty of the Department of Labor to administer and enforce;

(3) To direct, except as otherwise provided, make, or cause to be made all necessary inspections to see that all laws and rules made pursuant thereto that the department has the duty, power, and authority to enforce are promptly and effectively carried out; and

(4) To make investigations, collect and compile statistical information, and report upon conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this subchapter and of the rules issued under this subchapter.

History. Acts 1937, No. 161, §§ 2, 7; Pope's Dig., §§ 8498, 8503; Acts 1951, No. 273, § 1; A.S.A. 1947, §§ 81-102, 81-107.

Publisher's Notes. Acts 1937, No. 155, vested power to administer various labor laws in an Industrial Board.

Acts 1943, No. 126, transferred the powers of the Industrial Board under §§ 11-2-102, 11-2-110, 11-2-112—11-2-115, and 11-2-117 to the Commissioner of Labor, now the Director of the Department of Labor.

CASE NOTES**Enforcement of Rules.**

Although this section gave the Commissioner of Labor (now the Director of the Department of Labor) power to administer and enforce all rules and regulations under the duties of the Department of

Labor, it does not confer the power to adopt new rules and regulations. *Arkansas Dep't of Labor v. American Emp. Agency*, 257 Ark. 509, 517 S.W.2d 949 (1975).

11-2-109. Director — Intervention in and arbitration of labor disputes.

(a) In addition to such other duties and powers as may be conferred upon him or her by law, the Director of the Department of Labor shall have the power, jurisdiction, and authority:

(1)(A) To intervene or authorize his or her representative to intervene in any labor dispute in a strictly conciliatory or mediatory capacity whenever he or she is extended a written invitation to do so by either party to the controversy.

(B) However, the Department of Labor may proffer its services to both parties when a work stoppage is threatened and neither party requests intervention;

(2) To do all in his or her power to promote the voluntary arbitration of disputes between employers and employees and to avoid the necessity of resorting to lockouts, boycotts, blacklists, discriminations, and legal proceedings in matters of employment.

(b)(1) In pursuance of his or her duty, whenever both sides to any controversy agree to voluntary arbitration, the director may appoint temporary boards of arbitration, prescribe rules of procedure for the arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all things convenient and necessary to accomplish the purposes of this subchapter.

(2) Members of the boards of arbitration may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c)(1) The director may designate an employee of the department to act as chief mediator and may detail other employees or persons not in the department from time to time to act as his or her assistants for the purpose of executing these provisions.

(2) Employees of the department shall serve on temporary boards without extra compensation.

History. Acts 1937, No. 161, § 7; Pope's A.S.A. 1947, § 81-107; Acts 1997, No. 250, Dig., § 8503; Acts 1951, No. 273, § 1; § 57.

11-2-110. Director — Rulemaking authority.

(a) In addition to such other powers and duties as may be conferred upon him or her by law, the Director of the Department of Labor shall have the power to make, modify, and repeal reasonable rules for the prevention of accidents or industrial or occupational diseases in every employment or place of employment and to make, modify, and repeal

reasonable rules for the construction, repair, and maintenance of places of employment, places of public assembly, and public buildings which shall render them safe.

(b) The director shall have the power to make, modify, or repeal such rules, or changes in rules, as he or she may deem necessary to carry out the provisions of this subchapter.

(c) The director may appoint committees composed of employers, employees, and experts to suggest rules or changes therein.

(d) The rules of the director shall have the force and effect of law and shall be enforced by the director in the same manner as the provisions of this subchapter.

History. Acts 1937, No. 161, § 10; ers' Compensation Commission, § 11-9-207.
Pope's Dig., § 8506; A.S.A. 1947, § 81-109.

Cross References. Injuries, rules to prevent based on information from Work- Rules and regulations by State Board of Health, § 11-5-205.

RESEARCH REFERENCES

Ark. L. Rev. Administrative Law in Arkansas, 4 Ark. L. Rev. 107.

11-2-111. Office — Employees — Location of hearings.

(a) The Director of the Department of Labor is authorized to appoint a deputy director, a secretary, the heads of divisions, and such other employees as may be necessary. He or she is authorized to assign them to their duties and recommend to the General Assembly the salaries that are to be fixed by appropriation.

(b) The Department of Labor shall keep an office in the City of Little Rock and shall maintain such other office as shall meet the convenience of the department and the public. The department shall be provided by the Secretary of State with suitable rooms, necessary furniture, stationery, books, periodicals, and other supplies.

(c) The members, employees, and agents of the department shall be entitled to receive from the state their necessary and actual expenses while traveling on the business of the department either within or without the State of Arkansas.

(d) The director and his or her authorized representatives may hold hearings at any place other than the Capitol when the convenience of the department and of the interested parties requires.

History. Acts 1937, No. 161, §§ 4, 5; 112, § 1; A.S.A. 1947, §§ 81-104, 81-105; Pope's Dig., §§ 8500, 8501; Acts 1941, No. Acts 1989, No. 927, § 2.

11-2-112. Promulgation of rules.

(a) Before any rule is adopted, amended, or repealed, there shall be a public hearing thereon, notice of which shall be published at least

once and not less than ten (10) days prior to the public hearing in such newspaper as the Director of the Department of Labor may prescribe.

(b)(1) All rules and all amendments and repeals thereof shall, unless otherwise prescribed by the director, take effect thirty (30) days after the first publication thereof, and certified copies shall be filed in the office of the Secretary of State.

(2) Every rule adopted and every amendment or repeal shall be published in such manner as the director may determine, and the director shall deliver a copy to every person making application therefor. The director shall include the text of each rule or amendment in an appendix to the annual report of the department next following the adoption or amendment of the rule.

History. Acts 1937, No. 161, §§ 11, 12;
Pope's Dig., §§ 8507, 8508; A.S.A. 1947,
§§ 81-110, 81-111.

11-2-113. Variation of rule due to difficulties or hardship.

(a) If there shall be practical difficulties or unnecessary hardships in carrying out a rule of the Director of the Department of Labor, the director may, after public hearing, make a variation from such requirement if the spirit of the rule and law shall be observed.

(b) Any person affected by the rule, or his or her agent, may petition the director for a variation, stating the grounds therefor.

(c) The director shall fix a day for a hearing on the petition and give reasonable notice to the petitioner.

(d) A properly indexed record of all variations made shall be kept in the office of the Department of Labor and open to public inspection.

History. Acts 1937, No. 161, § 13;
Pope's Dig., § 8509; A.S.A. 1947, § 81-
112.

11-2-114. Judicial review of rules.

(a)(1) Any person aggrieved by a rule of the Director of the Department of Labor made pursuant to § 11-2-112 may commence an action in the Pulaski County Circuit Court against the Department of Labor, as defendant, to set aside the rule on the ground that it is unlawful or unreasonable.

(2) The action and the pleadings shall be governed by the laws and rules of practice applicable to other civil actions in the court.

(3) Any action brought under this section shall be commenced within thirty (30) days from the effective date of the rule.

(b)(1) All rules of the director shall be prima facie lawful and reasonable and shall not be held invalid because of any technical defect, provided there is substantial compliance with the provisions of this subchapter.

(2) All rules shall be conclusively presumed to be lawful and reasonable if the action is not commenced within thirty (30) days from the date of the rule as provided in this section.

History. Acts 1937, No. 161, § 19; Pope's Dig., § 8515; A.S.A. 1947, § 81-118.

11-2-115. Employer records — Inspection.

(a)(1) Every employer or owner shall furnish to the Director of the Department of Labor any information that the director is authorized to require and shall make true and specific answers to all questions, whether submitted orally or in writing, authorized to be put to the employer or owner.

(2)(A) Every employer shall keep a true and accurate record of the name, address, and occupation of each person employed by the employer, of the daily and weekly hours worked by each person, and of the wages paid each pay period to each person.

(B) The records shall be kept on file for at least one (1) year after the date of the record.

(C) No employer shall make or cause to be made any false entries in any record.

(b) The director and any authorized representative of the Department of Labor shall, for the purpose of examination, have access to and the right to copy from any book, account, record, payroll, paper, or documents relating to the employment of workers.

History. Acts 1937, No. 161, §§ 14, 15; Pope's Dig., §§ 8510, 8511; A.S.A. 1947, §§ 81-113, 81-114.

RESEARCH REFERENCES

Ark. L. Rev. Administrative Law in Arkansas, 4 Ark. L. Rev. 107.

11-2-116. Entry and inspection of workplace, etc.

(a) The Director of the Department of Labor and his or her authorized representatives shall have the power and authority to enter any place of employment, place of public assembly, or public building for the purpose of collecting facts and statistics relating to the employment of workers and of making inspections for the proper enforcement of all labor laws of the state.

(b) No employer or owner shall refuse to admit the director or his or her authorized representatives to his or her place of employment, public building, or place of public assembly.

History. Acts 1937, No. 161, § 16; Pope's Dig., § 8512; A.S.A. 1947, § 81-115.

11-2-117. Safe place of employment — Duties of employer and director.

(a) Every employer shall furnish employment that is safe for the employees therein and shall furnish and use safety devices and safeguards. The employer shall adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe and shall do every other thing reasonably necessary to protect the life, health, safety, and welfare of the employees.

(b) Every employer and every owner of a place of employment, place of public assembly, or public building, now or hereafter constructed, shall construct, repair, and maintain it so as to render it safe.

(c) If the Director of the Department of Labor or his or her authorized representative finds that any machine, tool, or equipment, or any part thereof, is in a dangerous condition, is not properly guarded, or is dangerously placed, he or she shall attach to the machine, tool, or equipment a notice warning all persons against its use and setting out in complete detail the conditions that render the machine, tool, or equipment unfit for service. The machine, tool, or equipment shall not be used until it is made safe, the required safeguards or safety appliances or devices as set forth in the certificate attached thereto have been fully corrected, and notice of the correction is sent to the Department of Labor by registered mail, accompanied by a certificate from a competent mechanic certifying correction of the defects.

History. Acts 1937, No. 161, § 9; Pope's Dig., § 8505; A.S.A. 1947, § 81-108.

Cross References. Inspection of working place, § 11-5-107.

CASE NOTES

ANALYSIS

Applicability.
Assumption of Risk.
Duty.
Effect on Workers' Compensation.
Evidence.
—No Violation Shown.
—Violation Shown.
Landlords.
Legislative Intent.

Applicability.

A violation of § 11-2-117 did not relieve employee of silica mine from assumption of risk of contracting occupational disease since this subchapter does not apply to mines and mining and the production of silica is a mining operation. *Barksdale v.*

Silica Prods. Co., 200 Ark. 32, 137 S.W.2d 901 (1940).

By its terms this subchapter applies only to a person having five or more employees, therefore, where there was no proof that defendant had that minimum number of employees, instruction that defendant had control of job and it was his duty to furnish plaintiff with a safe place to work was properly refused. *Richison v. Boatright*, 238 Ark. 579, 383 S.W.2d 287 (1964).

This section is directed to employers and employees in relation to working conditions, safety, and enforcement of the labor laws in connection therewith and does not apply to manufacturers in the design of products to be sold in the open market. *Chesser v. King*, 244 Ark. 1211,

428 S.W.2d 633 (1968), overruled, *Sunesson v. Holloway Constr. Co.*, 337 Ark. 571, 992 S.W.2d 79 (Ark. 1999).

Where it was found that a general contractor hired an independent electrical contractor, who was the actual employer of the lineman injured on the job, the contractor and the lineman did not have an employer-employee relationship and this section did not apply. *Stoltze v. Ark. Valley Elec. Coop. Corp.*, 354 Ark. 601, 127 S.W.3d 466 (2003).

Assumption of Risk.

This section, together with § 11-8-105, does not bar the defense of assumption of risk, in the absence of evidence of negligence on the part of an employer. *Buffington v. Owosso Mfg. Co.*, 105 F.2d 692 (8th Cir. 1939).

Duty.

It may be that possession of the place of employment by general contractor was sufficient to impose upon it a duty to make the place safe for employment of employee of the subcontractor; and, if so, the duty imposed on the prime contractor was beyond that imposed by the common law, and he could not escape liability by showing that he exercised ordinary care or even extraordinary care to make the place of employment safe. *Carter v. Fraser Constr. Co.*, 219 F. Supp. 650 (W.D. Ark. 1963).

Where neither the landlord, who had contracted with a general contractor, nor a proposed tenant had control or custody of employment, place of employment, or employee of subcontractor, this section which imposes a duty upon certain persons to make a place safe for employment did not apply to them. *Carter v. Fraser Constr. Co.*, 219 F. Supp. 650 (W.D. Ark. 1963).

This section does not require one employer to provide a safe place of employment for the employees of another. *Horn v. Shirley*, 246 Ark. 1134, 441 S.W.2d 468 (1969).

Effect on Workers' Compensation.

Proof of a violation of this section is sufficient to support a fifteen percent pen-

alty pursuant to § 11-9-503, even though this section is not part of the workers' compensation law. *Georgia Pac. Corp. v. Ray*, 273 Ark. 343, 619 S.W.2d 648 (1981).

Evidence.

—No Violation Shown.

There was no safety violation where there was evidence that employees were taught during training safety regulations written by defendant; safety rules were posted near work areas; and there were regular safety meetings with employees to reinforce awareness of safety in the work place and what could be done to avoid accidents. *Reed v. Reynolds Metals*, 33 Ark. App. 89, 801 S.W.2d 661 (1991).

—Violation Shown.

Injured employee had not failed to show a safety violation when he failed to show that the employer knew that the particular stair on which employee was injured would break; where the facts showed that the stair which broke was corroded, that the area was generally corroded and deteriorated, that the employer was aware of the danger, and that the employer neither made repairs nor set the area off limits to employees, the law requires no greater showing to establish a safety violation. *Bussell v. Georgia-Pacific Corp.*, 48 Ark. App. 131, 891 S.W.2d 75 (1995).

Landlords.

Without an assumption of responsibility for repairs, there is no common-law duty under which to impose liability on landlords to provide a safe workplace for the employees of their tenant, and none was created by this section. *Steward v. McDonald*, 330 Ark. 837, 958 S.W.2d 297 (1997).

Legislative Intent.

The General Assembly did not intend for the phrase "every owner of a place of employment" to expand or extend a landlord's duty to provide a safe place to work for his tenant's employees. *Steward v. McDonald*, 330 Ark. 837, 958 S.W.2d 297 (1997).

Cited: *Estes v. Cedar Chems.*, 54 Ark. App. 311, 925 S.W.2d 444 (1996).

11-2-118. Oaths, certifications, subpoenas, etc. — Enforcement by contempt.

(a) The Director of the Department of Labor and any officer of the Department of Labor designated by the director, in the performance of

any duty or the execution of any power prescribed by law, shall have the power to administer oaths, certify to official acts, take and cause to be taken depositions of witnesses, issue subpoenas, and compel the attendance of witnesses and the production of papers, books, accounts, payrolls, documents, records, and testimony.

(b) In case of failure of any person to comply with any subpoena lawfully issued or on the refusal of any witness to produce evidence or to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of any court of competent jurisdiction or the judge thereof, upon application of the director or any officer or agent of the department, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued for the court or a refusal to testify therein.

History. Acts 1937, No. 161, § 17; Pope's Dig., § 8513; A.S.A. 1947, § 81-116; 2003, No. 1473, § 21.

11-2-119. False statements made under oath deemed perjury.

Any employer or owner who shall knowingly testify falsely, under oath, or shall knowingly make, give, or produce any false statements or false evidence, under oath, to the Director of the Department of Labor or his or her authorized representatives shall be deemed guilty of perjury.

History. Acts 1937, No. 161, § 21; Pope's Dig., § 8517; A.S.A. 1947, § 81-120. **Cross References.** Perjury, § 5-53-101 et seq.

CASE NOTES

Construction.

This section is penal in nature and should be strictly construed. *Gordon v.*

Matson, 246 Ark. 533, 439 S.W.2d 627 (1969).

11-2-120. Annual report.

(a) The Director of the Department of Labor shall annually, on or before January 1, file with the Governor a report covering the activities of the Department of Labor, accompanied by recommendations with reference to such changes in the law, applying to and affecting industrial and labor conditions, as the director may deem advisable.

(b) The report of the director shall be printed and distributed in such manner as the Governor shall authorize.

History. Acts 1937, No. 161, § 22; Pope's Dig., § 8518; A.S.A. 1947, § 81-121.

11-2-121. Agreements with government agencies.

(a) The Director of the Department of Labor is authorized to enter into agreements with the United States Government and any and all other state governments for assistance and cooperation in enforcing and implementing state and federal laws and projects in fields related to the Department of Labor.

(b)(1) The department may accept payment or reimbursement for its services as provided by the acts of Congress or the legislature of any other state.

(2) All payments or funds received by the department under this section shall be deposited into the State Treasury, to be expended as provided by law.

History. Acts 1967, No. 414, § 1; A.S.A. 1947, § 81-124.

11-2-122. Disclosure to employees — Health benefits available.

(a) Any employer or owner who does make available any health benefits to employees, excluding workers' compensation, shall inform and notify the employees of the nature of those benefits as to those benefits being self-insured, fully insured, or Employee Retirement Income Security Act-qualified, and shall provide the necessary information to enable the employees to contact the authority regulating those health benefits.

(b) The notification shall be made at such time and in such manner as prescribed by regulation promulgated by the Director of the Department of Labor.

History. Acts 1995, No. 1115, § 1.

U.S. Code. The federal Employee Retirement Income Security Act (ERISA) of

1974, referred to in this section, is codified as 29 U.S.C. § 1001 et seq.

11-2-123. Employment training and placement programs for ex-offenders.

(a) In order to help facilitate the restoration of an ex-offender's responsibility and self-sufficiency, the Department of Labor shall work in conjunction with other appropriate state agencies, the private sector, and labor organizations to promulgate rules for implementing placement and training programs for ex-offenders.

(b) Training and placement programs shall be intensive and focus on in-demand vocations and professions, including without limitation:

- (1) Professional careers and vocations;
- (2) Service careers and vocations;
- (3) Information and computer technology;
- (4) Medical technology; and
- (5) Office administration.

(c) A training program created and administered under this section shall incorporate a "Certificate of Completion" to be awarded to any

person who completes a training program under this section, which shall signify that the person is competent to enter the workforce as an employee satisfactorily trained in a particular vocation or profession or as an employee prepared for on-the-job training.

History. Acts 2011, No. 1151, § 2.

SUBCHAPTER 2 — ARKANSAS MEDIATION AND CONCILIATION SERVICE NONDISCLOSURE ACT

SECTION.

11-2-201. Title.

11-2-202. Policy.

11-2-203. Definitions.

11-2-204. Records and information confidential.

SECTION.

11-2-205. Compliance with subpoenas.

11-2-206. Judicial review.

Effective Dates. Acts 1979, No. 750, § 9: Apr. 6, 1979. Emergency clause provided: "It is hereby found, determined and declared by the General Assembly of the State of Arkansas that the general welfare of workers and labor and management in this State demands that the Service's mediators and employees maintain a reputation for impartiality and integrity, and that labor and management or other interested parties participating in media-

tion efforts must have the assurance and confidence that information disclosed to mediators and other employees of the Service will not be divulged voluntarily or because of compulsion. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate guarantee of the general welfare of workers and labor and management in this State shall be in full force and effect from and after its passage and approval."

11-2-201. Title.

This subchapter may be cited as the "Arkansas Mediation and Conciliation Service Nondisclosure Act".

History. Acts 1979, No. 750, § 1; A.S.A. 1947, § 81-125.

11-2-202. Policy.

It is declared to be the public policy of the State of Arkansas that the successful effectuation of the mission of the Arkansas Mediation and Conciliation Service requires that its mediators and employees maintain a reputation for impartiality and integrity. Labor and management or other interested parties participating in mediation efforts must have the assurance and confidence that information disclosed to mediators and other employees of the service will not subsequently be divulged, either voluntarily or by compulsion, even after the individual is no longer connected with the service.

History. Acts 1979, No. 750, § 2; A.S.A. 1947, § 81-126.

11-2-203. Definitions.

For the purpose of this subchapter, unless the context otherwise requires:

- (1) "Director" means the Director of the Department of Labor;
- (2) "Person" means one (1) or more individuals, joint ventures, partnerships, associations, corporations, states, municipalities, business trusts, legal representatives, or any organized group of employees;
- (3) "Service" means the Arkansas Mediation and Conciliation Service of the Department of Labor; and
- (4) "State" means the State of Arkansas.

History. Acts 1979, No. 750, § 3; A.S.A. 1947, § 81-127.

11-2-204. Records and information confidential.

(a) All files, reports, letters, memoranda, minutes, documents, or other papers in the official custody of the Arkansas Mediation and Conciliation Service or any of its employees, or any other information, whether written or not, obtained in the course of any employee's official duties, relating to or acquired in its or their official activities under the labor laws of the state or the rules and regulations lawfully promulgated by the Director of the Department of Labor, are confidential.

(b) No confidential records or information shall be disclosed to any unauthorized person or be taken or withdrawn, copied, or removed from the custody of the service or its employees or former employees by any person or by any agent or representative of the person without the prior written consent of the representatives of both parties to the dispute involved.

(c) All information and material prepared or received by officers or employees shall be held in strictest confidence.

(d) Papers, reports, and copies thereof pertaining to or a part of dispute case files are not personal property but are the property of the state.

(e) Officers or employees terminating their connection with the service shall not be allowed to either keep or obtain copies of dispute case material or other official papers. Furthermore, all information, whether written or not, obtained in the course of their official duties must, after termination of their connection with the service, be treated by former employees with the same confidentiality as if they were still connected with the service.

History. Acts 1979, No. 750, §§ 4, 7; A.S.A. 1947, §§ 81-128, 81-131.

11-2-205. Compliance with subpoenas.

(a) No officer, employee, former employee, or other person officially connected or formerly officially connected to the Arkansas Mediation and Conciliation Service shall produce or present any confidential records of the service or testify in behalf of any party to any cause pending in any arbitration or other proceedings or court or before any board, commission, committee, tribunal, investigatory body, or administrative agency of the United States or of any state, territory, the District of Columbia, or the state or any municipality or political subdivision thereof with respect to facts or other matters coming to his or her knowledge in his or her official capacity, whether in answer to an order, subpoena duces tecum, or otherwise, without the prior written consent of the representatives of both parties to the dispute.

(b)(1) Whenever any subpoena or subpoena duces tecum calling for confidential records or testimony as described in subsection (a) of this section has been served upon any officer, employee, or other person, he or she will appear in answer thereto and, unless otherwise expressly agreed to by the representatives of both parties to the dispute, respectfully decline, by reason of this section, to produce or present the confidential records or to give testimony.

(2) Immediately upon receipt of the subpoena, the mediator or former mediator or employee should contact the Director of the Department of Labor, who shall immediately notify the staff attorneys of the Department of Labor of the state to ensure that the procedures set forth in this subchapter will be followed. The director then shall instruct the staff attorneys to appear in behalf of the mediator and protect the service from any disclosure that violates the provisions contained in this subchapter.

(c) In the event that the court insists that the mediator testify or produce documents, the staff attorneys of the department shall be further instructed to take immediate steps to procure the release of the mediator pending an appeal from the court's decision.

History. Acts 1979, No. 750, § 5; A.S.A. 1947, § 81-129.

11-2-206. Judicial review.

(a)(1) The mediator or the Director of the Department of Labor on his or her behalf or the Attorney General on his or her behalf may obtain a review of the order requiring him or her to testify.

(2) The review may be obtained by filing in the Supreme Court, within thirty (30) days following the issuance of the order, a written petition praying that the order be modified or set aside.

(3) A copy of the petition shall be forthwith transmitted by the Clerk of the Supreme Court to the clerk of the court issuing the order to testify or to produce documents and to the other parties, and thereupon that clerk shall file in the Supreme Court the record in the proceedings.

(b)(1) Upon filing, the Supreme Court shall have jurisdiction of the proceeding and of the question determined therein.

(2) The Supreme Court shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in the record a decree affirming, modifying, or setting aside, in whole or in part, the order of the court issuing its order to the mediator to testify or to produce and enforcing the order to the extent that it is affirmed or modified.

History. Acts 1979, No. 750, § 6; A.S.A. 1947, § 81-130.

CHAPTER 3

LABOR RELATIONS AND PRACTICES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. HIRING PRACTICES.
3. RIGHT TO WORK.
4. LABOR DISPUTES.

RESEARCH REFERENCES

ALR. Former employer's or supervisor's tort liability for misrepresentation or non-disclosure in employment references. 79 A.L.R.4th 941.

Setting aside arbitration award on ground of interest or bias of arbitrator — labor disputes. 66 A.L.R.5th 611.

Liability, under statute, of labor union or its membership for torts committed in connection with primary labor activities

— state cases. 85 A.L.R.4th 979.

Labor union's liability for injury or death allegedly resulting from unsafe working conditions. 14 A.L.R.4th 1161.

State criminal prosecution of union officer or member for specific physical threats to employer's property or person, in connection with labor dispute. 43 A.L.R.4th 1141.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

11-3-101. Soliciting advertising in name of labor organization.

Effective Dates. Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels

of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act

being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003.”

11-3-101. Soliciting advertising in name of labor organization.

(a)(1) Any person, firm, or corporation soliciting advertising in the State of Arkansas in the name of, on behalf of, or claiming to represent bona fide labor organizations shall, prior to the soliciting thereof, file with the Secretary of State a surety bond in the sum of five thousand dollars (\$5,000), conditioned that the person, firm, or corporation will well and truly perform any and all contracts entered into between the person, firm, or corporation and any person, firm, or corporation within the state.

(2) The person, firm, or corporation shall further file with the Secretary of State credentials from the organization the person, firm, or corporation represents, signed by the president and secretary and bearing the official seal of the organization.

(3) The bond shall be for the benefit of any person, firm, or corporation who or which has failed to receive any advertising contracted for.

(b) Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor. Upon conviction, the person, firm, or corporation shall be fined in any sum not less than one thousand dollars (\$1,000).

History. Acts 1941, No. 294, §§ 1, 2; A.S.A. 1947, §§ 71-201, 71-202; 2003, No. 1473, § 22.

SUBCHAPTER 2 — HIRING PRACTICES

SECTION.

- 11-3-201. Enticing away laborer prohibited — Penalty.
- 11-3-202. False statements or blacklists to prevent employment prohibited.
- 11-3-203. Medical examination as condition for employment.

SECTION.

- 11-3-204. Providing references to prospective employers.
- 11-3-205. Private employers — Leave for bone marrow or organ donation — Withholding tax credit.

Effective Dates. Acts 1883, No. 96, § 10: effective on passage.

Acts 1905, No. 214, § 2: effective on passage.

Acts 1905, No. 298, § 2: effective on passage.

Acts 1923 (1st Ex. Sess.), No. 34, § 2: approved Oct. 20, 1923. Emergency clause provided: “This act being necessary for the

immediate preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage.”

Acts 1951, No. 171, § 3: Feb. 27, 1951. Emergency clause provided: “Whereas, scores of citizens of this State are daily being required and forced to expend per-

sonal funds for physical examinations by persons, firms, partnerships, associations and corporations as a prerequisite to employment or continued employment; and whereas, it is inequitable and unjust to place this financial expense upon the applicant since the benefit from such examination flows substantially to said persons,

firms, partnerships and corporations; therefore, an emergency is hereby declared to exist, and this act being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

RESEARCH REFERENCES

ALR. Interference with at will business relationship. 5 A.L.R.4th 9.

Interference with contract or business relationship. 44 A.L.R.4th 1078.

Accommodation requirement under state legislation forbidding job discrimination on account of handicap. 76 A.L.R.4th 310.

Employer's state-law liability for withdrawing, or substantially altering, job offer for indefinite period before employee actually commences employment. 1 A.L.R.5th 401.

Former employer's or supervisor's tort

liability for misrepresentation or nondisclosure in employment references. 68 A.L.R.5th 1.

What constitutes handicap under state legislation forbidding job discrimination on account of handicap. 82 A.L.R.4th 26.

Validity and construction of statute prohibiting employer's from suggesting or requiring polygraph or similar test as condition of employment or continued employment. 23 A.L.R.4th 187.

Am. Jur. 48 Am. Jur. 2d, Labor, § 1300 et seq.

C.J.S. 51 C.J.S., Labor, § 8.

11-3-201. Enticing away laborer prohibited — Penalty.

(a) If any person shall interfere with, entice away, knowingly employ, or induce a laborer who has contracted with another person for a specified time to leave his or her employer before the expiration of his or her contract without the consent of the employer, then, upon conviction before any justice of the peace or circuit court, he or she shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500).

(b) In addition, he or she shall be liable to the employer for all advances made by him or her to the laborer by virtue of his or her contract, whether verbal or written, with the laborer and for all damages that he or she may have sustained by reason thereof.

History. Acts 1883, No. 96, § 8, p. 167; § 1; Pope's Dig., § 3493; A.S.A. 1947, 1905, No. 298, § 1, p. 726; C. & M. Dig., § 81-210.
§ 2789; Acts 1923 (1st Ex. Sess.), No. 34,

CASE NOTES

ANALYSIS

Constitutionality.
Purpose.
Civil Action.

Elements of Offense.
Indictment.
Jury Instructions.
Minors.
Temporary Employment.

Termination or Breach of Contract.

Note. — This section and § 18-16-104 [repealed] codify different aspects of Acts 1883, No. 96, § 8, which prohibited interference with either renters or laborers and the following case notes should be read with both sections in mind.

Constitutionality.

Acts 1883, No. 96 is not in conflict with the federal peonage act. *Johns v. Patterson*, 138 Ark. 420, 211 S.W. 387 (1919).

Purpose.

Acts 1883, No. 96 is not solely to afford protection to the employer or landlord, but also it tends toward the preservation of peace and good order, the prevention of bloodshed, disorder, and strife. *Tucker v. State*, 86 Ark. 436, 111 S.W. 275 (1908).

Civil Action.

Conviction of the misdemeanor as defined in this section is not a prerequisite to the bringing of a civil action for damages. *Johns v. Patterson*, 138 Ark. 420, 211 S.W. 387 (1919).

Elements of Offense.

This section does not intend to punish one who knowingly gives employment to a laborer during the expired term of his contract with another, but the employment must be an interference with the laborer's performance of his prior contract with another or an enticement of the laborer from his employment or an inducement to him to leave his employer's services. *Tucker v. State*, 86 Ark. 436, 111 S.W. 275 (1908).

If a defendant, knowing that a valid contract exists between landlord and tenant, entices the tenant to other labor, that act is in direct violation of this section. *Griffin v. State*, 160 Ark. 166, 254 S.W. 469 (1923).

This section is violated if enticement is made while there exists a valid contract for continued service known to the defendant. *State v. Moore*, 166 Ark. 412, 265 S.W. 363 (1924).

Indictment.

Section 18-42-101, as amended, applies to this section and an indictment charging a violation of this section alleging a contract of service for one year need not allege that the contract was in writing.

Mondschien v. State, 55 Ark. 389, 18 S.W. 383 (1892).

Where indictment charged defendant with inducing person to violate labor contract, and proof showed that contract was a contract of rental and not for service, conviction could not be had on that indictment. *Mondschien v. State*, 55 Ark. 389, 18 S.W. 383 (1892).

Jury Instructions.

An instruction intimating that the defendant was not liable if there had been a mere falling out between the plaintiff and the renter or unless the defendant had in some way participated in bringing about the breach or induced the renter to leave the plaintiff before the expiration of his contract did not mislead the jury. *Park v. Depriest*, 138 Ark. 86, 210 S.W. 777 (1919).

Minors.

A contract of employment with a minor under fifteen years of age, although voidable by the minor, was within the protection afforded by this section. *Tucker v. State*, 86 Ark. 436, 111 S.W. 275 (1908).

Although contract of employment of minor under fifteen years of age was not made in compliance with § 18-42-102, defendant could nevertheless be convicted under this section of enticing the minor from his employment. *Tucker v. State*, 86 Ark. 436, 111 S.W. 275 (1908).

Temporary Employment.

Hiring a tenant to do two or three days' work is not within the prohibition of this section. *Sturdivant v. Tollette*, 84 Ark. 412, 105 S.W. 1037 (1907).

Termination or Breach of Contract.

Hiring a tenant after he has terminated his contract with a landlord cannot be construed as a violation of this section. *Park v. Depriest*, 138 Ark. 86, 210 S.W. 777 (1919); *Simonson v. Butler*, 171 Ark. 1189, 287 S.W. 1014 (1926).

The defendant was not liable for hiring the plaintiff's renter where the renter had breached his contract before he was employed by the defendant. *Park v. Depriest*, 138 Ark. 86, 210 S.W. 777 (1919).

Damages cannot be recovered in an action where the tenant had made up his own mind to break his contract with plaintiff before defendant dealt with him. *Coolidge v. Howe*, 180 Ark. 952, 23 S.W.2d 609 (1930).

11-3-202. False statements or blacklists to prevent employment prohibited.

(a)(1) In this state, every person who shall send or deliver, make or cause to be made for the purpose of being delivered or sent, part with the possession of any paper, letter, or writing, with or without a name signed thereto, sign with a fictitious name, or with any letter, mark, or other designation, or publish or cause to be published any false statement for the purpose of preventing another person from obtaining employment in this state or elsewhere shall, upon conviction, be adjudged guilty of a misdemeanor.

(2) Every person who shall blacklist any person by writing, printing, or publishing, or causing any of these things to be done, the name or any mark or designation representing the name of any person in any paper, pamphlet, circular, or book, together with any false statement concerning the person so named, or shall publish that anyone is a member of any secret organization, for the purpose of preventing that other person from securing employment, shall upon conviction be adjudged guilty of a misdemeanor.

(3) Any person who shall do any of the things mentioned in this section for the purpose of causing the discharge of any person employed by any railroad or other company, corporation, or individual shall upon conviction be adjudged guilty of a misdemeanor.

(b) A person convicted shall be fined in the sum of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned in the county jail for twelve (12) months, or both fined and imprisoned.

History. Acts 1905, No. 214, § 1, p. 545; C. & M. Dig., § 7135; Pope's Dig., § 9121; A.S.A. 1947, § 81-211.

RESEARCH REFERENCES

ALR. Validity, construction, and operation of state blacklisting statutes. 95 A.L.R.5th 1.

11-3-203. Medical examination as condition for employment.

(a)(1) It is unlawful for any person, partnership, association, or corporation, either for himself or herself or in a representative or fiduciary capacity, to require any employee or applicant for employment, as a condition of employment or continued employment, to submit to or take a physical, medical examination, or drug test unless the physical, medical examination, or drug test is provided at no cost to the employee or applicant for employment and unless a true and correct copy, either original or duplicate original, of the examiner's report of the physical, medical examination, or drug test is furnished free of charge to the applicant or employee upon a written request of the applicant or employee.

(2) It shall further be unlawful for any person, partnership, association, or corporation to require any employee or applicant for employment to pay, either directly or indirectly, any part of the cost of the physical, medical examination, drug test, report, or copy of the report.

(3) Notwithstanding subdivision (a)(1) of this section, if an employee tests positive for an illegal drug as defined by rule of the Department of Labor, the employer and employee may agree in writing who will bear the cost of future drug tests or screens required as a condition of continued employment.

(b) Each and every violation of any provision of subsection (a) of this section shall constitute a misdemeanor, punishable by a fine in any amount not exceeding one hundred dollars (\$100).

(c) The Director of the Department of Labor shall administer and enforce this section, including without limitation, by:

(1) Adopting administrative rules; and

(2) Demanding payment and seeking recovery in a court of competent jurisdiction for charges, fees, wage deductions, or other payments made by employees as a result of an employer's violation of this section.

(d) This section does not change the definition of "medical examination" under any other state or federal statute.

History. Acts 1951, No. 171, §§ 1, 2; substituted "physical, medical examination, or drug test" for "examination" twice
A.S.A. 1947, §§ 81-212, 81-213; Acts 2009, in (a)(1) and in (a)(2).
No. 453, §§ 1, 2; 2011, No. 980, § 1.

Amendments. The 2011 amendment

11-3-204. Providing references to prospective employers.

(a)(1) A current or former employer may disclose the following information about a current or former employee's employment history to a prospective employer of the current or former employee upon receipt of written consent from the current or former employee:

(A) Date and duration of employment;

(B) Current pay rate and wage history;

(C) Job description and duties;

(D) The last written performance evaluation prepared prior to the date of the request;

(E) Attendance information;

(F) Results of drug or alcohol tests administered within one (1) year prior to the request;

(G) Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;

(H) Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and

(I) Whether the employee is eligible for rehire.

(2) The current or former employer disclosing such information shall be presumed to be acting in good faith and shall be immune from civil liability for the disclosure or any consequences of such disclosure unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed by the

current or former employer was false, and the current or former employer had knowledge of its falsity or acted with malice or reckless disregard for the truth.

(b)(1) The consent required in subsection (a) of this section must be on a separate form from the application form or, if included in the application form, must be in bold letters and in larger typeface than the largest typeface in the text of the application form. The consent form must state, at a minimum, language similar to the following:

“I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective employer).”

(2) The consent must be signed and dated by the applicant.

(3) The consent will be valid only for the length of time that the application is considered active by the prospective employer but in no event longer than six (6) months.

(c) The provisions of this section shall also apply to any current or former employee, agent, or other representative of the current or former employer who is authorized to provide and who provides information in accordance with the provisions of this section.

(d)(1) This section does not require any prospective employer to request employment history on a prospective employee and does not require any current or former employer to disclose employment history to any prospective employer.

(2) Except as specifically amended herein, the common law of this state remains unchanged as it relates to providing employment information on present and former employees.

(3) This section shall apply only to causes of action accruing on and after July 30, 1999.

(e) The immunity conferred by this section shall not apply when an employer or prospective employer discriminates or retaliates against an employee because the employee or the prospective employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by the public policy of this state.

History. Acts 1999, No. 1474, §§ 1-5.

11-3-205. Private employers — Leave for bone marrow or organ donation — Withholding tax credit.

(a) As used in this section:

(1) “Bone marrow donor” means a person from whose body bone marrow is taken to be transferred to the body of another person;

(2) “Organ” means a human organ that is capable of being transferred from the body of a person to the body of another person, including eyes;

(3) “Organ donor” means a person from whose body an organ is taken to be transferred to the body of another person; and

(4)(A) "Private employer" means a sole proprietor, corporation, partnership, limited liability company, or other entity with one (1) or more employees.

(B) "Private employer" does not include a municipality, county, state agency, institution of higher education, or other public employer.

(b)(1) In addition to any medical, personal, or other paid leave provided by the employer, a private employer shall grant an employee an unpaid leave of absence to allow the employee to serve as an organ donor or a bone marrow donor if the employee requests a leave of absence in writing.

(2) The length of the leave of absence shall be equal to the time requested by the employee or ninety (90) days, whichever is less.

(3) A private employer may grant a paid or unpaid leave of absence for a length of time greater than ninety (90) days.

(c)(1) If a private employer agrees to pay the employee's regular salary or wages during the leave of absence required under subsection (b) of this section, then the private employer is entitled to a credit against the private employer's Arkansas withholding tax liability.

(2)(A) The amount of the credit provided in subdivision (c)(1) of this section shall be equal to twenty-five percent (25%) of the regular salary or wages paid to the employee while the employee was on a leave of absence required under subsection (b) of this section.

(B) However, if the private employer grants the employee a leave of absence greater than ninety (90) days, the credit provided under this subsection shall be limited to the regular salary or wages paid during the first ninety (90) days of the leave of absence.

(3) The credit shall be taken within one (1) year of the date upon which the leave required under subsection (b) of this section begins.

(d) This section shall not apply if the employee is eligible for leave under the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.

History. Acts 2005, No. 2235, § 1.

SUBCHAPTER 3 — RIGHT TO WORK

SECTION.

11-3-301. Policy.

11-3-302. Enforcement.

11-3-303. Union affiliation or nonaffiliation not to be condition of employment.

SECTION.

11-3-304. Contracts to exclude persons from employment prohibited.

Publisher's Notes. Acts 1947, No. 101, § 5, provided that that act would not apply to existing contracts, but would apply to any renewals or extensions thereof.

Cross References. Rights of labor, Ark. Const. Amend. 34.

RESEARCH REFERENCES

Am. Jur. 48 Am. Jur. 2d, Labor, §§ 1192, 1202, 1205, 1217, 1219, 1334, 2588.

Ark. L. Notes. Flaccus, Employment Law: Eliminating Some Employee Rights, 1997 Ark. L. Notes 1.

Ark. L. Rev. Acts of 1947: "Freedom to Work" Act, 1 Ark. L. Rev. 204.

Federal Limitations on State Jurisdiction over Labor-Management Relations, 12 Ark. L. Rev. 354.

Thirteen Years of the "Right to Work" in Arkansas, 14 Ark. L. Rev. 289.

Labor Law — Legality of Hiring-Hall Agreement in Arkansas, 17 Ark. L. Rev. 98.

Labor Law — Collective Bargaining in the Public Sector, 23 Ark. L. Rev. 503.

C.J.S. 51 C.J.S., Labor, § 10.

CASE NOTES

ANALYSIS

In General.
Federal Preemption.
Picketing.

In General.

This subchapter is the enabling and enforcement law for Ark. Const. Amend. 34. *Self v. Taylor*, 217 Ark. 953, 235 S.W.2d 45 (1950).

Federal Preemption.

Where picketing is for the purpose of forcing an employer to agree to a provision which is in violation of state law, the National Labor Relations Act does not apply. *International Ass'n of Machinists v. Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W.2d 48 (1954).

Where the conduct in dispute and the

parties are subject to the exclusive and primary jurisdiction of the National Labor Relations Board, a state chancery court has no jurisdiction under this subchapter. *International Hodcarriers v. Cone-Huddleston, Inc.*, 241 Ark. 140, 406 S.W.2d 366 (1966).

Picketing.

The fact that labor dispute did not exist between employer and employees did not of itself render picketing unlawful. *Self v. Wisener*, 226 Ark. 58, 287 S.W.2d 890 (1956).

Peaceful picketing as a protest against the payment of substandard wages is not prohibited by this chapter. *Self v. Wisener*, 226 Ark. 58, 287 S.W.2d 890 (1956).

Cited: *International Brotherhood, E. W. v. Broadmoor Builders, Inc.*, 225 Ark. 260, 280 S.W.2d 898 (1955).

11-3-301. Policy.

Freedom of organized labor to bargain collectively and freedom of unorganized labor to bargain individually is declared to be the public policy of the state under Arkansas Constitution, Amendment 34.

History. Acts 1947, No. 101, § 1; A.S.A. 1947, § 81-201.

RESEARCH REFERENCES

ALR. Validity, construction, and application of state right-to-work provisions. 105 A.L.R.5th 243.

CASE NOTES

Public Employees.

This section does not require a city to engage in collective bargaining with a

labor union to which city employees belong. *Ft. Smith v. Arkansas State Council*, 245 Ark. 409, 433 S.W.2d 153 (1968).

11-3-302. Enforcement.

The power and duty to enforce this subchapter is conferred upon and vested in the circuit court of the county in which any person, group of persons, firm, corporation, unincorporated association, labor organization, or representatives thereof who violate this subchapter, or any part hereof, reside or have a place of business or may be found and served with process.

History. Acts 1947, No. 101, § 4; A.S.A. 1947, § 81-204.

CASE NOTES

Cited: *Lewis v. Hixson*, 174 F. Supp. 241 (W.D. Ark. 1959).

11-3-303. Union affiliation or nonaffiliation not to be condition of employment.

No person shall be denied employment because of membership in or affiliation with a labor union, nor shall any person be denied employment because of failure or refusal to join or affiliate with a labor union, nor shall any person, unless he or she shall voluntarily consent in writing to do so, be compelled to pay dues or any other monetary consideration to any labor organization as a prerequisite to, condition of, or continuance of employment.

History. Acts 1947, No. 101, § 2; A.S.A. 1947, § 81-202.

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey of Arkansas Law, Labor Law, 1 U. Ark. Little Rock L.J. 217.

CASE NOTES

ANALYSIS

In General.
Affiliate.
Exclusive Arrangement.
Picketing.

In General.

Where the requirement of union membership as a condition of employment in a wage agreement is limited to the extent and manner permitted by law, such wage agreement is valid. *Lewis v. Hixson*, 174 F.

Supp. 241 (W.D. Ark. 1959).

Affiliate.

This section applies not only to persons who are not members of a labor union but also to persons who fail or refuse to affiliate with a labor union. *Kaiser v. Price-Fewell, Inc.*, 235 Ark. 295, 359 S.W.2d 449 (1962), cert. denied, 371 U.S. 955, 83 S. Ct. 511 (1963).

The word "affiliate" is not used in the same sense as the word "join"; otherwise the General Assembly would not have used the two words in the same sentence. *Kaiser v. Price-Fewell, Inc.*, 235 Ark. 295, 359 S.W.2d 449 (1962), cert. denied, 371 U.S. 955, 83 S. Ct. 511 (1963).

Exclusive Arrangement.

Arrangement which made the register of applicants the exclusive source of em-

ployees was prohibited by the constitution and the laws of this state because it had the effect of excluding persons from employment who failed to join or affiliate with a union, thus accomplishing by indirection what they were prohibited by law from doing directly. *Kaiser v. Price-Fewell, Inc.*, 235 Ark. 295, 359 S.W.2d 449 (1962), cert. denied, 371 U.S. 955, 83 S. Ct. 511 (1963).

Picketing.

Although picketing was peaceful, where from evidence it was shown that only purpose of picketing was to force appellee to continue a closed shop, picketing was enjoined. *Self v. Taylor*, 217 Ark. 953, 235 S.W.2d 45 (1950).

11-3-304. Contracts to exclude persons from employment prohibited.

(a) No person, group of persons, firm, corporation, association, or labor organization shall enter into any contract to exclude from employment:

- (1) Persons who are members of, or affiliated with, a labor union;
- (2) Persons who are not members of, or who fail or refuse to join or affiliate with, a labor union; and
- (3) Persons who, having joined a labor union, have resigned their membership or have been discharged, expelled, or excluded.

(b)(1) Any person, group of persons, firm, corporation, association, labor organization, or representatives thereof, either for themselves or others, who sign, approve, or enter into a contract contrary to the provisions of this subchapter shall be guilty of a misdemeanor. Upon conviction, the person, group of persons, firm, corporation, association, labor organization, or representatives thereof, shall be fined in a sum not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000).

(2) Each day that the unlawful contract is given effect, or in any manner complied with, shall be deemed a separate offense and shall be punishable as such as provided in this section.

History. Acts 1947, No. 101, §§ 3, 4; A.S.A. 1947, §§ 81-203, 81-204.

CASE NOTES

ANALYSIS

Affiliate.
 Contract Validity.
 Furnishing Employees.
 Membership Required.
 Picketing.
 Sole Bargaining Agent.

Affiliate.

This section applies not only to persons who are not members of a labor union but also to persons who fail or refuse to affiliate with a labor union. *Kaiser v. Price-Fewell, Inc.*, 235 Ark. 295, 359 S.W.2d 449 (1962), cert. denied, 371 U.S. 955, 83 S. Ct. 511 (1963).

The use of the word "affiliate" is not used in the same sense as the word "join"; otherwise the General Assembly would not have used the two words in the same sentence. *Kaiser v. Price-Fewell, Inc.*, 235 Ark. 295, 359 S.W.2d 449 (1962), cert. denied, 371 U.S. 955, 83 S. Ct. 511 (1963).

Contract Validity.

No suit could be maintained on agreement to recover amounts due pension fund from defendant operators where pension fund agreement was part of illegal, and thus void and unenforceable, closed shop agreement. *Lewis v. Jackson & Squire, Inc.*, 86 F. Supp. 354 (W.D. Ark. 1949), appeal dismissed, 181 F.2d 1011 (8th Cir. Ark. 1950).

Where the union shop provision of a wage agreement is limited to the extent and manner permitted by law, the wage agreement is valid under the right to work statutes. *Lewis v. Hixson*, 174 F. Supp. 241 (W.D. Ark. 1959).

Furnishing Employees.

A provision in a collective bargaining agreement that a union would furnish the employer with such workers as necessary to complete work contracted for by the

employer, was not a provision for a closed shop and was not illegal. *Ketcher v. Sheet Metal Workers' Int'l Ass'n*, 115 F. Supp. 802 (E.D. Ark. 1953).

Membership Required.

Where requirement contained in wage agreement that as a condition of employment all employees should be or become members of the union was followed by the phrase "to the extent and in the manner permitted by law," the phrase negated the possibility of a union shop, thus making the agreement acceptable under the right to work laws. *Lewis v. Hixson*, 174 F. Supp. 241 (W.D. Ark. 1959).

Picketing.

Picketing would not be enjoined on ground that the picketing was for purpose of coercing execution of closed shop contract where there was no testimony that a closed shop contract was ever mentioned or demanded by the union. *Local No. 802 v. Asimos*, 216 Ark. 694, 227 S.W.2d 154 (1950).

A demand by a union that a collective bargaining agreement contain a provision in violation of Ark. Const. Amend. 34 and this subchapter, coupled with picketing in an attempt to enforce the demand, is grounds for the issuance of an injunction prohibiting picketing. *International Ass'n of Machinists v. Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W.2d 48 (1954).

Sole Bargaining Agent.

An agreement providing that the local union will be bargaining agent for employees, but which does not require that employees be or become union members nor that the contractor must request workmen from the union is not a violation of this subchapter. *Williams v. Arthur J. Arney Co.*, 240 Ark. 157, 398 S.W.2d 515 (1966).

Cited: *Lewis v. Hixson*, 174 F. Supp. 241 (W.D. Ark. 1959).

SUBCHAPTER 4 — LABOR DISPUTES

SECTION.

11-3-401. Prevention of lawful employment prohibited.

11-3-402. Interference with railroad en-

gines and employees prohibited.

Cross References. State police not to perform duties on private property in connection with strikes or lockouts, § 12-8-106.

RESEARCH REFERENCES

ALR. Liability, under statute, of labor union or its membership for torts committed in connection with primary labor activities - state cases. 85 A.L.R.4th 979.

Am. Jur. 48A Am. Jur. 2d, Labor, § 3511 et seq.

Ark. L. Rev. Injunctions Against Picketing in Arkansas, 1 Ark. L. Rev. 281.

Constitutional Law — Labor Law — Picketing as Free Speech, 5 Ark. L. Rev. 90.

Federal Limitations on State Jurisdiction over Labor-Management Relations, 12 Ark. L. Rev. 354.

C.J.S. 51B C.J.S., Lab. Rel., § 1165.

51A C.J.S., Labor, § 263 et seq.

30 C.J.S., Employer-Employee, § 35 et seq.

11-3-401. Prevention of lawful employment prohibited.

(a)(1) It shall be unlawful for any person by the use or threat of the use of force or violence to prevent or attempt to prevent any person from engaging in any lawful vocation within this state.

(2) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction shall be punished by confinement in the Department of Correction for not less than one (1) year nor more than two (2) years.

(b)(1) It shall be unlawful for any person acting in concert with one (1) or more other persons to assemble at or near any place where a labor dispute exists and by force or violence prevent or attempt to prevent any person from engaging in any lawful vocation.

(2) It shall also be unlawful for any person acting either by himself or herself or as a member of any group or organization or acting in concert with one (1) or more other persons to promote, encourage, or aid any such unlawful assemblage.

(3) Any person guilty of violating this subsection shall be deemed guilty of a felony and upon conviction thereof shall be punished by confinement in the Department of Correction for not less than one (1) year nor more than two (2) years.

(c) The term "labor dispute" as used in this section shall include any controversy between an employer and two (2) or more employees concerning the terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment.

(d) The provisions of this section shall be cumulative of all other existing criminal laws of this state upon the same subject, and in the event of a conflict between existing articles and the provisions of this section, then and in that event, the provisions, offenses, and punishments set forth herein shall prevail over the existing articles.

History. Acts 1943, No. 193, §§ 1-4;
A.S.A. 1947, §§ 81-206 — 81-209.

CASE NOTES

ANALYSIS

Constitutionality.
Construction.
Appeal.
Applicability of Federal Law.
Evidence.
Indictment and Information.

Constitutionality.

This section does not violate constitutional guarantee of equal protection of the law. *Smith v. State*, 207 Ark. 104, 179 S.W.2d 185 (1944).

Subsection (b) of this section is not unconstitutional on the ground that it is vague, since it plainly means that it is unlawful for two or more to assemble and by force and violence prevent another from engaging in a lawful vocation. *Cole v. Arkansas*, 338 U.S. 345, 70 S. Ct. 172 (1949).

Construction.

This section was borrowed from the state of Texas and along with it, the construction theretofore given it by the highest court of that state. *Smith v. State*, 207 Ark. 104, 179 S.W.2d 185 (1944).

Appeal.

Where information charged offense under subsection (b), decision on appeal affirming conviction because of violation of subsection (a) denied defendants due process of law. *Cole v. Arkansas*, 333 U.S. 196, 68 S. Ct. 514, 92 L. Ed. 644 (1948).

Applicability of Federal Law.

Where picketing is for the purpose of forcing an employer to agree to a provision which is in violation of state law, the National Labor Relations Act does not apply. *International Ass'n of Machinists v. Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W.2d 48 (1954).

Evidence.

Evidence sufficient to sustain a conviction for violation of this section. *Smith v. State*, 207 Ark. 104, 179 S.W.2d 185 (1944); *Cole v. State*, 214 Ark. 387, 216 S.W.2d 402 (1949), *aff'd*, 338 U.S. 345, 70 S. Ct. 172 (1949).

Indictment and Information.

Information charging that by threats and the use of force and violence defendant prevented named individual from engaging in the painting of a building was sufficient. *Smith v. State*, 207 Ark. 104, 179 S.W.2d 185 (1944).

While indictment charging that defendant did "prevent and/or attempt to prevent" the engaging in a certain occupation was improper, the defendant should have asked for a bill of particulars, and motion in arrest of judgment was properly overruled. *Gurein v. State*, 209 Ark. 1082, 193 S.W.2d 997 (1946).

Cited: *International Ass'n of Machinists v. Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W.2d 48 (1954).

11-3-402. Interference with railroad engines and employees prohibited.

(a) Where a labor union or striking employees are picketing, or causing to be picketed, the premises or approach to the premises of any employer which is not a railroad, it shall be unlawful for any persons to stand upon the track or in the way or otherwise interfere with, prevent, delay, forbid, or obstruct by force or threats the progress of any railroad engine, train, or cars operated by a railroad common carrier in the performance of its common carrier duties and moving from, to, or past the premises.

(b) Where any labor union or striking employees are picketing, or causing to be picketed, the premises or approach to the premises of an

employer which is not a railroad, it shall be unlawful for any person, through intimidation, picketing, or otherwise intentionally to induce or persuade, or to seek to induce or persuade, any employees of a railroad not to enter, leave, or pass the premises with any railroad engine, train, or cars operated by a railroad in the performance of its common carrier duties.

(c) Any person who shall violate any of the provisions of this section shall upon conviction be adjudged guilty of a misdemeanor and punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for a time not to exceed six (6) months, or by both fine and imprisonment.

(d) In addition to the penalty provisions of this section, it shall be the duty of any court of competent jurisdiction at the instance of any party adversely affected by a violation of this section to enforce the provisions by restraining orders and injunction.

(e) Anyone conspiring with others to cause a violation of this section shall be liable in a civil action for damages.

History. Acts 1953, No. 257, §§ 1-4;
A.S.A. 1947, §§ 81-214 — 81-217.

CASE NOTES

Cited: International Brotherhood, E.
W. v. Broadmoor Builders, Inc., 225 Ark.
260, 280 S.W.2d 898 (1955).

CHAPTER 4

WAGE AND HOUR REGULATIONS GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. MINIMUM WAGE LAW.
3. WAGE DISPUTES.
4. PAYMENT OF WAGES.
5. FEMALE EMPLOYEES GENERALLY. [REPEALED.]
6. WAGE DISCRIMINATION.

RESEARCH REFERENCES

ALR. Discharge of employee for complaining about wages, hours, or working conditions. 35 A.L.R.4th 1031.

Validity, construction, and effect of state

laws requiring payment of wages on discharge of employee immediately or within specified period. 18 A.L.R.5th 577.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

11-4-101. Assignment of wages.

11-4-102. [Repealed.]

Effective Dates. Acts 1905, No. 49, Acts 1911, No. 34, § 3: effective on passage.
 § 4: effective on passage.

RESEARCH REFERENCES

Am. Jur. 48A Am. Jur. 2d, Labor,
 § 2581 et seq.

11-4-101. Assignment of wages.

(a) No assignment or order for wages to be earned in the future to secure a loan of less than two hundred dollars (\$200) shall be valid against any employer of the person making the assignment or order until the assignment or order is accepted in writing by the employer and the assignment or order and the acceptance of it has been filed with the recorder of the county where the party making the assignment or order resides if a resident of this state or in the state where he or she is employed.

(b) No assignment of or order for wages to be earned in the future shall be valid when made by a married man, unless the written consent of his wife to making such assignment or order for wages shall be attached thereto.

History. Acts 1911, No. 34, §§ 1, 2; C. & M. Dig., §§ 9119, 9120; A.S.A. 1947, §§ 81-316, 81-317.

CASE NOTES

Applicability.

Subsection (a) of this section does not apply to assignment to secure purchase of an article. *Missouri Pac. R.R. v. Warren*, 162 Ark. 199, 258 S.W. 130 (1924).

Cited: *Union Life Ins. Co. v. Perkins*, 257 F. Supp. 154 (E.D. Ark. 1966).

11-4-102. [Repealed.]

Publisher's Notes. This section, concerning maximum hours in saw and planing mills, was repealed by Acts 2003, No. 924, § 1. The section was derived from

Acts 1905, No. 49, §§ 1-3, p. 139; C. & M. Dig., §§ 7082-7084; Pope's Dig., §§ 9064-9066; A.S.A. 1947, §§ 81-422 — 81-424.

SUBCHAPTER 2 — MINIMUM WAGE LAW

SECTION.

11-4-201. Title.
 11-4-202. Policy.
 11-4-203. Definitions.
 11-4-204. Law most favorable to employees applicable — Liberal construction.

SECTION.

11-4-205. Right of collective bargaining not affected.
 11-4-206. Penalties.
 11-4-207. [Repealed.]
 11-4-208. [Repealed.]
 11-4-209. Director of the Department of

SECTION.

Labor — Powers and duties.

- 11-4-210. Minimum wage.
- 11-4-211. Overtime.
- 11-4-212. Allowance for gratuities.
- 11-4-213. Allowance for furnishing board, lodging, apparel, etc.
- 11-4-214. Handicapped workers.

SECTION.

11-4-215. Learners, apprentices, and full-time students.

- 11-4-216. Posting of law.
- 11-4-217. Records kept by employer.
- 11-4-218. Employee's remedies.
- 11-4-219. Judicial review.
- 11-4-220. Person entitled to file a claim.

Effective Dates. Acts 1973, No. 13, § 2: Jan. 29, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the minimum wage of one dollar and twenty cents (\$1.20) per hour currently provided by law is totally inadequate; that this Act increases the minimum wage to one dollar and forty cents (\$1.40) and should be given effect on July 1, 1973; that if it should become necessary to extend the Regular Session of the Sixty-Ninth General Assembly to complete the business of the Session the final adjournment date might be too late for the provisions of this Act to be given effect on July 1, unless an emergency is declared; that the General Assembly finds that it is essential to the welfare of the citizens of this State that the provisions of this Act be given effect on July 1, 1973. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1975, No. 316, § 2: Mar. 5, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that the minimum wage of one dollar and forty cents (\$1.40) currently provided by law is totally inadequate; and that this Act increases the minimum wage to one dollar and seventy cents (\$1.70) and should be given effect on July 1, 1975; and that if it should become necessary to extend the Regular Session of the Seventieth General Assembly to complete the business of the Session, the final adjournment date might be too late for the provisions of this Act to be given effect on July 1, 1975, unless an emergency is declared; that the General Assembly finds that it is essential to the welfare of the citizens of this State that the provisions of this Act be

given effect on July 1, 1975. Therefore, an emergency is declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in effect from and after the date of its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1156, § 2: Feb. 11, 1976. Emergency clause provided: "It is hereby found and determined by the Seventieth General Assembly, meeting in Extended Session, that Section 1 of Act 316 of 1975 requires clarification regarding the status of students under Arkansas Labor Laws and the effect of gratuities upon minimum wage, and that legislative action is necessary to allow this clarification. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval."

Acts 1977, No. 345, § 6: Mar. 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that the minimum wage of two dollars (\$2.00) per hour currently provided by law is totally inadequate; that this Act increases the minimum wage to two dollars and ten cents (\$2.10) an hour; that the minimum wage coverage extending to employers with five (5) or more employees is totally inadequate; that this Act extends the minimum wage coverage to employers with four (4) or more employees; that employment of workers in excess of forty (40) hours in a workweek, and forty-eight (48) hours in a workweek in the case of hotel, motel, and restaurant workers, at less than premium pay for such additional work is detrimental to the health and welfare of such workers; that this Act provides overtime compensation for hours worked in excess of forty (40)

hours in a workweek, and forty-eight (48) hours per workweek in the case of hotel, motel, and restaurant workers, at one and one-half times their regular hourly rate of pay; that the General Assembly finds that it is essential to the welfare of the citizens of this State that the provisions of this Act be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1981, No. 610, § 3: Jan. 1, 1982.

Acts 1981, No. 667, § 3: Jan. 1, 1982.

Acts 1987, No. 987, § 3: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1156 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 544, § 6: July 1, 1991. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the minimum wage laws and overtime laws in Arkansas are in need of revision and that this act is immediately necessary to assist persons now receiving minimum wage. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect on and after July 1, 1991."

Acts 1997, No. 201, § 5: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the state minimum wage in Arkansas is unreasonably low; that this act increases the state minimum wage to parallel the federal minimum wage; that this act should go into effect on July 1, 1997; and that unless this emergency clause is adopted the act will not be effective until after July 1, 1997. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate

preservation of the public peace, health and safety shall be in full force and effect beginning July 1, 1997."

Acts 1997, No. 221, § 6: Feb. 20, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law regarding the enforcement by the Director of the Department of Labor of the state's minimum wage laws is both time consuming and costly, resulting in unnecessary delay in recovery of wages for wage earners and unnecessary costs to the state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1369, § 5: Apr. 12, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that those camps affected by this Act are in immediate need of relief so that they may plan and continue their operations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Identical Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8: Oct. 1, 2006.

Acts 2007, No. 545, § 3: Mar. 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Act 15 of the 1st Extraordinary Session of 2006 raised the state minimum wage and enlarged its application. It is further found that there is a need to parallel certain provisions of federal labor law in order to prevent widespread disruption of the payroll practices

of Arkansas employers that would result in increased business costs. It is further found that those increased business costs would place Arkansas employers in a competitive disadvantage by comparison to employers in other states and would result in irreparable economic harm Arkansas employers and their employees. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 707, § 2: Apr. 29, 2007. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that this act is necessary to protect jobs within the State of Arkansas, prevent an increase in costs to residents and tourists that patronize restaurants, and protect the financial stability of businesses that rely on the services provided by tipped employees. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective thirty (30) days from and after the date of its passage and approval. If the bill is neither approved nor vetoed by the Governor, it shall become effective thirty (30) days from the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective thirty (30) days from the date the last house overrides the veto."

RESEARCH REFERENCES

Am. Jur. 48A Am. Jur. 2d, Labor, § 2551 et seq.

C.J.S. 51B C.J.S., Labor, § 1017 et seq.

30 C.J.S., Employer-Employee, § 132 et seq.

51 C.J.S., Lab Rel. § 1165.

11-4-201. Title.

This subchapter shall be known as the "Minimum Wage Act of the State of Arkansas".

History. Acts 1968 (1st Ex. Sess.), No. 25, § 16; A.S.A. 1947, § 81-318.

CASE NOTES

Class Action Certification.

Employees' motion for class certification pursuant to Fed. R. Civ. P. 23 was granted where: (1) the corporations currently employed approximately 820 employees at the Batesville facility; (2) the employees showed that the common legal question shared by the members of the proposed class was whether the Arkansas Minimum Wage Act (AMWA), § 11-4-201 et seq., and/or common law quantum meruit required the corporations to compensate their employees for donning and doffing related activities; (3) the proposed class members shared the same legal theory,

which was that the corporations violated the AMWA by failing to pay them for all compensable work time and they all claimed that donning and doffing activities were compensable under AMWA and common law quantum meruit; (4) there was no indication that the class representatives' desire to receive additional compensation would be adverse to the class's interests and the class representatives indicated a willingness to prosecute their claims through qualified counsel. *Ford v. Townsends of Ark., Inc.*, — F. Supp. 2d —, 2010 U.S. Dist. LEXIS 46093 (E.D. Ark. Apr. 9, 2010).

Court granted the employees' motion for class certification under Fed. R. Civ. P. 23 in their action alleging that defendants violated the Fair Labor Standards Act, 29 U.S.C.S. § 201 et seq., and the Arkansas Minimum Wage Act, § 11-4-201 et seq., by failing to compensate hourly employees for time spent donning, doffing, sanitizing required gear and equipment, walking to and from the production floor, and other related and required duties because the employees met the numerosity, commonality, typicality, and adequacy of representation requirements of R. 23(a), and they demonstrated that common issues predominated and that a class action was the superior method for adjudicating the employees' claims as required by R. 23(b)(3). *Garner v. Butterball, LLC*, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 21859 (E.D. Ark. Feb. 22, 2012).

Because the court denied class certification under Fed. R. Civ. P. 23 in an earlier filed case on the ground that the named plaintiffs were not typical of or adequate

representatives for the class, it was not a reason equally applicable to any later suit, so American Pipe applied and the statute of limitations was tolled by the prior action. Under Arkansas's savings statute, § 16-56-126, the tolling gave plaintiffs one year after certification was denied in the prior action to commence a new action and receive the full protection of the prior action, and because plaintiffs filed the instant action within that year, they received the maximum benefit of the tolling, except that they could not recover from any further back than October 1, 2006, because prior to October 1, 2006, the employer was exempt from the Arkansas Minimum Wage Act as it was subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. *Garner v. Butterball, LLC*, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 21859 (E.D. Ark. Feb. 22, 2012).

Cited: *Marine Servs. Unlimited, Inc. v. Rakes*, 323 Ark. 757, 918 S.W.2d 132 (1996).

11-4-202. Policy.

It is declared to be the public policy of the State of Arkansas to establish minimum wages for workers in order to safeguard their health, efficiency, and general well-being and to protect them as well as their employers from the effects of serious and unfair competition resulting from wage levels detrimental to their health, efficiency, and well-being.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 1; A.S.A. 1947, § 81-319.

11-4-203. Definitions.

As used in this subchapter:

- (1) "Director" means the Director of the Department of Labor;
- (2) "Employ" means to suffer or to permit to work;
- (3) "Employee" means any individual employed by an employer but shall not include:

(A) Any individual employed in a bona fide executive, administrative, or professional capacity or as an outside commission-paid salesperson who customarily performs his or her services away from his or her employer's premises taking orders for goods or services;

(B) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes;

(C) Any individual employed by the United States;

(D) Any individual engaged in the activities of any educational, charitable, religious, or nonprofit organization in which the em-

ployer-employee relationship does not in fact exist or in which the services are rendered to the organizations gratuitously;

(E) Any bona fide independent contractor;

(F) Any individual employed by an agricultural employer who did not use more than five hundred (500) man-days of agricultural labor in any calendar quarter of the preceding calendar year;

(G) The parent, spouse, child, or other member of an agricultural employer's immediate family;

(H) An individual who:

(i) Is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(ii) Commutes daily from his or her permanent residence to the farm on which he or she is so employed; and

(iii) Has been employed in agriculture less than thirteen (13) weeks during the preceding calendar year;

(I) A migrant who:

(i) Is sixteen (16) years of age or under and is employed as a hand-harvest laborer;

(ii) Is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(iii) Is employed on the same farm as his or her parents; and

(iv) Is paid the same piece-rate as employees over sixteen (16) years of age are paid on the same farm;

(J) Any employee principally engaged in the range production of livestock;

(K) Any employee employed in planting or tending trees, cruising, surveying, or felling timber or in preparing or transporting logs or other forestry products to the mill, processing plants, or railroad or other transportation terminal if the number of employees employed by his or her employer in the forestry or lumbering operations does not exceed eight (8);

(L) An employee employed by a nonprofit recreational or educational camp that does not operate for more than seven (7) months in any calendar year;

(M) A nonprofit child welfare agency employee who serves as a houseparent who is:

(i) Directly involved in caring for children who reside in residential facilities of the nonprofit child welfare agency and who are orphans, in foster care, abused, neglected, abandoned, homeless, in need of supervision, or otherwise in crisis situations that lead to out-of-home placements; and

(ii) Compensated at an annual rate of not less than thirteen thousand dollars (\$13,000) or compensated at an annual rate of not less than ten thousand dollars (\$10,000) if the employee resides in the residential facility and receives board and lodging at no cost;

(N) An employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation:

(i) Of less than four thousand (4,000); and

(ii) The major part of which is within the county in which the newspaper is published or counties contiguous to the county in which the newspaper is published;

(O) An employee employed on a casual basis in domestic service employment to provide:

(i) Babysitting services; or

(ii) Companionship services for individuals who are unable to care for themselves because of age or infirmity;

(P) An employee engaged in the delivery of newspapers to retail subscribers; or

(Q) A home worker engaged in:

(i) Making wreaths composed principally of natural holly, pine, cedar, or other evergreens; and

(ii) Harvesting natural holly, pine, cedar, and other evergreens used in making such wreaths;

(4)(A) "Employer" means any individual, partnership, association, corporation, business trust, the State of Arkansas, any political subdivision of the state, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(B) "Employer" shall not include any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee for any work week in which fewer than four

(4) employees are employed;

(5) "Gratuities" means voluntary monetary contributions received by an employee from a guest, patron, or customer for services rendered;

(6) "Independent contractor" means any individual who contracts to perform certain work away from the premises of his or her employer, uses his or her own methods to accomplish the work, and is subject to the control of the employer only as to the result of his or her work;

(7) "Man-day" means any day during any portion of which an employee performs any agricultural labor. Any individual otherwise excluded as an employee under subdivision (3)(I) of this section shall be considered an employee in computing man-days of agricultural labor;

(8) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed; and

(9) "Wage" means compensation due to an employee by reason of his or her employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by this subchapter or by regulations of the director under this subchapter.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 2; 1977, No. 345, § 1; 1979, No. 1095, § 1; 1983, No. 698, § 1; A.S.A. 1947, § 81-320; Acts 1989, No. 360, § 1; 1999, No. 1369, § 1; 2001, No. 1423, § 1; 2003, No. 212, § 1; Acts 2006 (1st Ex. Sess.), No. 15, § 1; 2006 (1st Ex. Sess.), No. 16, § 1; 2007, No. 545, § 1.

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Arkansas Law, Labor Law, 1 U. Ark. Little Rock L.J. 217.

Survey of Legislation, 2001 Arkansas General Assembly, Labor Law, 24 U. Ark. Little Rock L. Rev. 493.

CASE NOTES

Cited: Venhaus v. Adams, 295 Ark. 606, 752 S.W.2d 20 (1988).

11-4-204. Law most favorable to employees applicable — Liberal construction.

(a) Any standards relating to minimum wages, maximum hours, or other working conditions in effect under any other law of this state on May 22, 1968, which are more favorable to employees than those applicable to employees under this subchapter or the regulations issued in this chapter shall not be deemed to be amended, rescinded, or otherwise affected by this subchapter but shall continue in full force and effect and may be enforced as provided by law unless and until they are specifically superseded by standards more favorable to employees by operation of or in accordance with regulations issued under this subchapter.

(b) This subchapter shall be liberally construed in favor of its purposes and shall not limit any law or policy that requires payment of higher or supplemental wages or benefits.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 13; A.S.A. 1947, § 81-331; Acts 2006 (1st Ex. Sess.), No. 15, § 2; 2006 (1st Ex. Sess.), No. 16, § 2.

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

11-4-205. Right of collective bargaining not affected.

Nothing in this subchapter shall be deemed to interfere with, impede, or in any way diminish the right of employers and employees to bargain collectively through representatives of their own choosing in order to establish wages or other conditions of work.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 14; A.S.A. 1947, § 81-332.

11-4-206. Penalties.

(a)(1) Any employer who willfully hinders or delays the Director of the Department of Labor or his or her authorized representative in the performance of his or her duties in the enforcement of this subchapter, willfully refuses to admit the director or his or her authorized representative to any place of employment, willfully fails to make, keep, and preserve any records as required under the provisions of this subchapter, willfully falsifies any such record, willfully refuses to make the record accessible to the director or his or her authorized representative upon demand, willfully refuses to furnish a sworn statement of the record or any other information required for the proper enforcement of this subchapter to the director or his or her authorized representative upon demand, willfully fails to post a summary of this subchapter or a copy of any applicable regulations as required by § 11-4-216, pays or agrees to pay minimum wages at a rate less than the rate applicable under this subchapter, or otherwise willfully violates any provision of this subchapter or of any regulation issued under this subchapter shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(2) For the purposes of this subsection, each violation shall constitute a separate offense.

(b) Any employer who willfully discharges or in any other manner willfully discriminates against any employee because the employee has made any complaint to his or her employer or to the director or his or her authorized representative that he or she has not been paid minimum wages in accordance with the provisions of this subchapter or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this subchapter or because the employee has testified or is about to testify in any such proceeding shall be deemed in violation of this subchapter and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(c) For the purposes of this section, each day that the violation continues shall constitute a separate offense.

(d) The director shall determine the amount of the penalty and shall consider the appropriateness of the penalty to the size of the business and the gravity of the violation.

(e) The determination by the director shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail the person, firm, corporation, partnership, or association charged with the violation notifies the director in writing that he or she contests the proposed penalty. In the event that a penalty is contested, a final determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) Upon a final administrative determination, the amount of the penalty may be recovered in a civil action brought by the director in a

court of competent jurisdiction without paying costs or giving bond for costs.

(g) Sums collected under this section shall be paid into the Department of Labor Special Fund.

(h) Assessment of a civil penalty by the director shall be made no later than three (3) years after the date of the occurrence of the violation.

(i) In addition to the civil penalty provided by this section, the director is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or any regulation issued thereunder.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 11; A.S.A. 1947, § 81-329; Acts 2001, No. 1423, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Labor Law, 24 U. Ark. Little Rock L. Rev. 493.

11-4-207. [Repealed.]

Publisher's Notes. This section, concerning the creation of the Labor Board, was repealed by Acts 2001, No. 1423, § 3. The section was derived from Acts 1968 (1st Ex. Sess.), No. 25, § 5; 1979, No. 996, § 1; A.S.A. 1947, § 81-323; Acts 1997, No. 250, § 58.

11-4-208. [Repealed.]

Publisher's Notes. This section, concerning the authority of the Labor Board, was repealed by Acts 2001, No. 1423, § 4. The section was derived from Acts 1968 (1st Ex. Sess.), No. 25, § 5; 1979, No. 996, § 1; A.S.A. 1947, § 81-323.

11-4-209. Director of the Department of Labor — Powers and duties.

(a) For any occupation, the Director of the Department of Labor shall make and revise such administrative regulations, including definitions of terms, as he or she may deem appropriate to carry out the purposes of this subchapter or necessary to prevent the circumvention or evasion thereof and to safeguard the minimum wage rates established.

(b) The regulations may include, but are not limited to, regulations governing:

- (1) Outside or commission salespersons;
- (2) Learners and apprentices, their number, proportion, and length of service;
- (3) Part-time pay, bonuses, and fringe benefits;
- (4) Special pay for special or extra work;

(5) Permitted charges to employees or allowances for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees;

(6) Allowances for gratuities; and

(7) Allowances for other special conditions or circumstances which may be usual in a particular employer-employee relationship.

(c) Regulations shall be promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The director or his or her authorized representatives shall:

(1) Have authority to enter and inspect the place of business or employment of any employer in the state for the purpose of:

(A) Examining and inspecting any or all books, registers, payrolls, and other records of any employer that in any way relate to or have a bearing upon the question of wages, hours, and other conditions of employment of any employees;

(B) Copy any or all of the books, registers, payrolls, and other records as he or she may deem necessary or appropriate; and

(C) Question employees for the purpose of ascertaining whether the provisions of this subchapter and regulations issued under this subchapter have been and are being complied with;

(2) Have authority to require from the employer full and correct statements in writing, including sworn statements, with respect to wages, hours, names, addresses, and such information pertaining to his or her employees as the director or his or her authorized representative may deem necessary or appropriate;

(3) Publish all regulations promulgated pursuant to this subchapter; and

(4) Otherwise implement and enforce the provisions of this subchapter and the regulations issued under this subchapter.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 4; A.S.A. 1947, § 81-322; Acts 2001, No. 1423, § 5.

11-4-210. Minimum wage.

(a) Beginning October 1, 2006, every employer shall pay each of his or her employees wages at the rate of not less than six dollars and twenty-five cents (\$6.25) per hour except as otherwise provided in this subchapter.

(b) With respect to any full-time student attending any accredited institution of education within this state and who is employed to work an amount not to exceed twenty (20) hours during weeks that school is in session or forty (40) hours during weeks when school is not in session, the rate of wage shall be equal to but not less than eighty-five percent (85%) of the minimum wage provided in this section.

History. Acts 1968 (1st Ex. Sess.), No. 1156, § 1; 1977, No. 345, §§ 2, 3; 1979, 25, § 3; 1973, No. 13, § 1; 1975, No. 316, No. 996, § 3; 1981, No. 610, § 1; 1981, No. § 1; 1975 (Extended Sess., 1976), No. 667, § 1; 1983, No. 453, § 1; A.S.A. 1947,

§ 81-321; Acts 1987, No. 974, § 1; reen. Acts 1987, No. 987, § 1; Acts 1989, No. 360, § 2; 1989, No. 845, § 1; 1991, No. 544, § 1; 1993, No. 331, § 1; 1993, No. 568, § 1; 1997, No. 201, § 1; 2006 (1st Ex. Sess.), No. 15, § 3; 2006 (1st Ex. Sess.), No. 16, § 3.

A.C.R.C. Notes. This section was reenacted by Acts 1987, No. 987, § 1. Acts 1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any

other 1987 legislation and that such other legislation would be controlling in the event of conflict.

Acts 1989, No. 360, § 2, also included at the beginning of (a)(1) the following language: "Beginning January 1, 1989."

As enacted, the 1991 amendment in (a)(1) began "Beginning July 1, 1991."

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

11-4-211. Overtime.

(a) Except as otherwise provided in this section and §§ 11-4-210 and 11-4-212, no employer shall employ any of his or her employees for a work week longer than forty (40) hours unless the employee receives compensation for his or her employment in excess of the hours above specified at a rate not less than one and one-half (1 ½) times the regular rate of pay at which he or she is employed.

(b) The provisions regarding the payment of wages at one and one-half (1 ½) times the regular rate of pay for overtime services shall not be applicable with respect to agricultural employees.

(c) Neither the provisions of this section nor the provisions of any other law of this state shall be construed to require the payment of compensation at a greater rate than the normal rate for services performed by agricultural employees in excess of forty (40) hours per week.

(d) This section shall not apply to any employee exempt from the overtime requirements of the federal Fair Labor Standards Act pursuant to the provisions of 29 U.S.C. § 213(b)(1)-(24) and (b)(28)-(30), as they existed on March 1, 2006.

(e) No public agency shall be deemed to have violated this section with respect to the employment of any employee in fire protection activities or law enforcement activities, including security personnel in correctional institutions, provided that the public agency pays overtime pay in compliance with 29 U.S.C. § 207(k), as it existed on March 1, 2006.

(f) In lieu of overtime compensation, the State of Arkansas and any political subdivision of the state may award compensatory time off at a rate of not less than one and one-half (1 ½) hours for each hour of employment for which overtime compensation is required. The compensatory time off may be provided only:

(1)(A) Pursuant to applicable provisions of a collective bargaining agreement, memorandum of understanding, or other agreement between the public agency and representatives of such employees.

(B) In the case of employees not covered by subdivision (f)(1)(A) of this section, an agreement or understanding arrived at between the employer and employee before the performance of the work; and

(2) If the employee has not terminated employment and has not accrued compensatory time in excess of the following:

(A) Four hundred eighty (480) hours for police, firefighters, emergency response personnel, and employees engaged in seasonal activities; or

(B) Two hundred forty (240) hours for any public employee not otherwise exempt or covered by subdivision (f)(2)(A) of this section.

(g) By rule or regulation, the Director of the Department of Labor may authorize employment in excess of the standard set by subsection (a) of this section or may authorize the calculation of overtime on a basis other than the regular rate of pay required by subsection (a) of this section for employment:

(1) Necessitating irregular hours of work;

(2) At a piece rate;

(3) Paying on a commission basis in a retail or service establishment;

(4) In a hospital or enterprise engaged in the care of the sick, the aged, or individuals with mental illness;

(5) By an independently-owned-and-controlled local enterprise engaged in the wholesale or bulk distribution of petroleum products; and

(6) Under a collective bargaining agreement.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1977, No. 345, §§ 4, 5; 1983, No. 453, § 2; A.S.A. 1947, §§ 81-321, 81-321.1; Acts 1991, No. 544, § 2; 2006 (1st Ex. Sess.), No. 15, § 4; 2006 (1st Ex. Sess.), No. 16, § 4; 2007, No. 545, § 2.

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey of Arkansas Law, Labor Law, 1 U. Ark. Little Rock L.J. 217.

11-4-212. Allowance for gratuities.

(a) Every employer of an employee engaged in any occupation in which gratuities have been customarily and usually constituted and have been recognized as a part of remuneration for hiring purposes shall be entitled to an allowance for gratuities as a part of the hourly wage rate provided in § 11-4-210 in an amount of no less than three dollars and sixty-two cents (\$3.62) per hour, provided that the employee actually received that amount in gratuities and that the application of the foregoing gratuity allowances results in payment of wages other than gratuities to tipped employees, including full-time students subject to the provisions of § 11-4-210, of no less than two dollars and sixty-three cents (\$2.63) per hour.

(b) In determining whether an employee received in gratuities the amount claimed, the Director of the Department of Labor may require the employee to show to the satisfaction of the director that the actual amount of gratuities received by him or her during any work week was

less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1973, No. 13, § 1; 1975, No. 316, § 1; 1975 (Extended Sess., 1976), No. 1156, § 1; 1977, No. 345, § 3; 1979, No. 996, § 4; 1981, No. 610, § 1; 1981, No. 667, § 1; A.S.A. 1947, § 81-321; reen. Acts 1987, No. 987, § 1; 2006 (1st Ex. Sess.), No. 15, § 7; 2006 (1st Ex. Sess.), No. 16, § 7; 2007, No. 707, § 1.

A.C.R.C. Notes. This section was reenacted by Acts 1987, No. 987, § 1. Acts

1987, No. 834, provided that 1987 legislation reenacting acts passed in the 1976 Extended Session should not repeal any other 1987 legislation and that such other legislation would be controlling in the event of conflict.

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

11-4-213. Allowance for furnishing board, lodging, apparel, etc.

(a) Every employer of an employee engaged in any occupation in which board, lodging, apparel, or other items and services are customarily and regularly furnished to the employee for his or her benefit shall be entitled to an allowance for the reasonable value of board, lodging, apparel, or other items and services as part of the hourly wage rate provided in § 11-4-210 in an amount not to exceed thirty cents (30¢) per hour.

(b) In determining whether an employee received board, lodging, apparel, or other items and services having a reasonable value of less than thirty cents (30¢) per hour during any work week, the Director of the Department of Labor may require the employee to show to the satisfaction of the director that the reasonable value of items and services received by the employee was less than the amount determined by the employer as the amount by which the wage paid the employee was deemed to be increased under this section.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 3; 1973, No. 13, § 1; A.S.A. 1947, § 81-321.

11-4-214. Handicapped workers.

(a) Any person handicapped by lack of skill, age, or physical or mental deficiency or injury in any way that his or her earning capacity is impaired shall be granted a temporary special exemption license or permit authorizing the employment of the person at wages lower than the minimum prescribed in this subchapter until such time as the Director of the Department of Labor shall hold a hearing and prescribe regulations regarding exemption of these persons as authorized in this section.

(b)(1) The director may provide by regulation, after notice and public hearing at which any person may be heard, for the employment in any occupation of individuals whose earning capacity is impaired by age or physical or mental deficiency or injury at wages lower than the

minimum wage rate provided in § 11-4-210 as he or she may find appropriate to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rate under this subchapter.

(2) In addition, the director, by regulation or special order, may provide for the employment of handicapped clients in work activities centers under special certificates at wages that are less than the minimum prescribed in § 11-4-210 that the director determines constitutes equitable compensation for the clients in work activities centers.

(c) For the purposes of this section, the term “work activities centers” shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical and mental impairment is so severe as to make their productivity capacities inconsequential.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 6; A.S.A. 1947, § 81-324; Acts 2001, No. 1423, § 6.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Labor Law, 24 U. Ark. Little Rock L. Rev. 493.

11-4-215. Learners, apprentices, and full-time students.

(a) For any occupation, the Director of the Department of Labor may provide, by regulation, after a public hearing at which any person may be heard, for the employment in the occupation of learners, apprentices, and full-time students at wages lower than the minimum wage rate provided in § 11-4-210(b) as he or she may find appropriate to prevent curtailment of opportunities for employment and to safeguard the minimum wage rate under this subchapter.

(b) No employee shall be employed at wages fixed pursuant to this section, except under special license issued under applicable regulations of the director.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 7; A.S.A. 1947, § 81-325; Acts 2001, No. 1423, § 7.

11-4-216. Posting of law.

(a) Every employer subject to any provisions of this subchapter or of any regulations issued under this subchapter shall keep a summary of this subchapter, approved by the Director of the Department of Labor, and copies of any applicable regulations issued under this subchapter, or a summary of the regulations approved by the director, posted in a conspicuous and accessible place in or about the premises wherein any person subject thereto is employed.

(b) Employers shall be furnished copies of the summaries of this statute and regulations by the director on request without charge.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 9; A.S.A. 1947, § 81-327; Acts 2001, No. 1423, § 8.

11-4-217. Records kept by employer.

(a) Every employer subject to any provision of this subchapter or of any regulation issued under this subchapter shall make and keep for a period of not less than three (3) years in or about the premises wherein any employee is employed a record of the name, address, and occupation of each of his or her employees, the rate of pay, the amount paid each pay period to each employee, and such other information as the Director of the Department of Labor shall prescribe by regulation as necessary or appropriate for the enforcement of the provisions of this subchapter or of the regulations under this subchapter.

(b) The records shall be open for inspection or transcription by the director or his or her authorized representative at any reasonable time.

(c) Every employer shall furnish to the director or to his or her authorized representative on demand a sworn statement of the records and information upon forms prescribed or approved by the director.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 8; A.S.A. 1947, § 81-326; Acts 2001, No. 1423, § 9.

11-4-218. Employee's remedies.

(a)(1) Any employer who pays any employee less than the minimum wages, including overtime compensation or compensatory time off as provided by this subchapter, to which the employee is entitled under or by virtue of this subchapter shall:

(A) Pay any applicable civil penalties; and

(B) Be liable to the employee affected for:

(i) The full amount of the wages, less any amount actually paid to the employee by the employer; and

(ii) Costs and such reasonable attorney's fees as may be allowed by the court.

(2) The employee may be awarded an additional amount up to, but not greater than, the amount under subdivision (a)(1)(B)(i) of this section to be paid as liquidated damages.

(b) Any agreement between the employee and employer to work for less than minimum wages shall be no defense to the action.

(c) The venue of the action shall lie in the circuit court of any county in which the services that are the subject of the employment were performed.

(d)(1) The Director of the Department of Labor shall have the authority to fully enforce this subchapter by instituting legal action to

recover any wages that he or she determines to be due to employees under this subchapter.

(2) No legal action shall be brought by the director until after notice and opportunity for hearing pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and entry of a final administrative order.

(3)(A) Following any appeals taken pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., the director shall be entitled to enforce his or her final administrative order in any court of competent jurisdiction without paying costs or giving bond for costs.

(B) The director's findings of fact shall be conclusive in any such proceeding.

(e)(1) An employee may bring an action for equitable and monetary relief against an employer, including the State of Arkansas or a political subdivision of the state, if the employer pays the employee less than the minimum wages, including overtime wages, to which the employee is entitled under or by virtue of this subchapter.

(2) If the employee brings an action under this subsection, then any complaint before the director by the employee on the same matter shall be dismissed with respect to that employee.

(3)(A) The employee shall not be required to exhaust administrative remedies before bringing an action.

(B) There shall be no procedural, pleading, or burden of proof requirements beyond those that apply generally to civil suits in order to maintain the action.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 12; 1971, No. 731, § 1; A.S.A. 1947, § 81-330; Acts 1997, No. 221, § 1; 1999, No. 981, § 1; 2006 (1st Ex. Sess.), No. 15, § 5; 2006 (1st Ex. Sess.), No. 16, § 5.

Effective Dates. Acts 2006 (1st Ex. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

CASE NOTES

Statute of Limitations.

Three-year statute of limitations set forth in Ark. Code Ann. § 16-56-105 applies to private causes of action brought pursuant to subsection (e) of this section, the Arkansas Minimum Wage Act, because subsection (e) constitutes a liability created expressly by statute, and it does

not include a specific limitations provision; where a cause of action is brought pursuant to a statute that does not expressly provide a limitations period, § 16-56-105 is the appropriate limitations provision. *Douglas v. First Student, Inc.*, 2011 Ark. 463, — S.W.3d — (2011).

11-4-219. Judicial review.

(a) Any interested person in any occupation for which any administrative regulation has been issued under the provisions of this subchapter who may be aggrieved by any regulation may obtain a review thereof in the circuit court of the county of the residence of the aggrieved party by filing in the court within twenty (20) days after the

date of publication of the regulation a written petition praying that the regulation be modified or set aside.

(b) A copy of the petition shall be served upon the Director of the Department of Labor.

(c)(1) The court shall review the record of the proceedings before the director, and the director's findings of fact shall be affirmed if supported by substantial evidence. The court shall determine whether the regulation is in accordance with law.

(2) If the court determines that the regulation is not in accordance with law, it shall remand the case to the director with directions to modify or revoke the regulation.

(d)(1) If application is made to the court for leave to adduce additional evidence by any aggrieved party, the party shall show to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence before the director.

(2) If the court finds that the evidence is material and that reasonable grounds exist for failure of the aggrieved party to adduce the evidence in prior proceedings, the court shall remand the case to the director with directions that the additional evidence be taken before the director.

(3) The director may modify his or her findings and conclusions, in whole or in part, by reason of the additional evidence.

(e) Hearings in the circuit court on all appeals taken under the provisions of this subchapter shall take precedence over all matters except matters of the same character. The jurisdiction of the court shall be exclusive, and its judgment and decree shall be final, except that it shall be subject to review by the Supreme Court.

(f)(1) The commencement of proceedings under subsections (a)-(d) of this section, unless specifically ordered by the court, shall not operate as a stay of an administrative regulation issued under the provisions of this subchapter.

(2) The court shall not grant any stay of an administrative regulation unless the person complaining of the regulation shall file an amount in the court, undertaking with a surety satisfactory to the court, for payment to the employees affected by the regulation in the event that the regulation is affirmed. The surety shall be in an amount by which the compensation the employees are entitled to receive under the regulation exceeds the compensation they actually receive while the stay is in effect.

History. Acts 1968 (1st Ex. Sess.), No. 25, § 10; A.S.A. 1947, § 81-328; Acts 2001, No. 1423, § 10.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Labor Law, 24 U. Ark. Little Rock Legislation, 2001 Arkansas General As- L. Rev. 493.

11-4-220. Person entitled to file a claim.

(a) Any employee covered by this subchapter may file a claim with the Director of the Department of Labor charging that an employer has violated § 11-4-210 or § 11-4-211 as to any employee or other person.

(b) The director shall promptly investigate each claim.

(c) The name of any employee identified in a claim shall be kept confidential until the director issues an administrative complaint or the director is ordered to release the information by order of a court of competent jurisdiction.

History. Acts 2006 (1st Ex. Sess.), No. 15, § 6; 2006 (1st Ex. Sess.), No. 16, § 6. Sess.), Nos. 15 and 16, § 8, provide: "This act shall become effective on October 1, 2006."

Effective Dates. Acts 2006 (1st Ex. 2006."

SUBCHAPTER 3 — WAGE DISPUTES

SECTION.

11-4-301. Definition.

11-4-302. Act cumulative.

11-4-303. Director of Department of Labor to conduct hearing.

SECTION.

11-4-304. Judicial review.

11-4-305. Enforcement of laborer's lien.

11-4-306. Fees prohibited.

Effective Dates. Acts 1973, No. 147, § 2; Feb. 19, 1973. Emergency clause provided: "It is hereby found and declared by the General Assembly of the State of Arkansas that the public interest demands that wage earners in the State be given effective legal remedies and recourse to be

able to recover hard earned wages. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the immediate preservation of the public peace, health, safety and welfare, shall be in full force and effect from and after its passage and approval."

11-4-301. Definition.

As used in this subchapter, "labor" means work or service performed by a person employed for a period of time for which the wages or salary or remuneration for the work or services is to be paid at stated intervals or at the termination of the employment or for physical work actually performed by an independent contractor if the amount in controversy does not exceed two thousand dollars (\$2,000).

History. Acts 1937, No. 86, § 1; Pope's 1973, No. 147, § 1; A.S.A. 1947, § 81-311; Dig., § 8537; Acts 1941, No. 431, § 1; Acts 2009, No. 622, § 1.

CASE NOTES

Excess Claims.

Claims presented in excess of the jurisdictional amount may be stricken if ob-

jected to. *Thornbrough v. Williams*, 225 Ark. 709, 284 S.W.2d 641 (1955).

11-4-302. Act cumulative.

This subchapter is a substitute for Acts 1923, No. 380, but apart from that act is cumulative in its effect and shall not be so construed as to nullify or repeal the laws now existing with regard to liens.

History. Acts 1937, No. 86, § 6; Pope's Dig., § 8541; A.S.A. 1947, § 81-315.

11-4-303. Director of Department of Labor to conduct hearing.

(a) Upon application of either employer or employee, the Director of the Department of Labor or any person authorized by the director shall have authority to inquire into, hear, and decide disputes arising from wages earned and shall allow or reject any deduction from wages.

(b) Upon motion of either employer or employee, the amount found to be due may be paid in the presence of the director or person designated by him or her, and after final hearing by the director or person appointed by him or her, he or she shall file in the office of the Department of Labor a copy of findings and facts and his or her award.

(c) The amount of the award of the director shall be presumed to be the amount of wages, if any, due and unpaid to the employee.

History. Acts 1937, No. 86, § 2; Pope's Dig., § 8538; A.S.A. 1947, § 81-312.

RESEARCH REFERENCES

Ark. L. Rev. Constitutional Law — Separation of Powers — Legislative Delegation of Judicial Powers, 10 Ark. L. Rev. 213.

U. Ark. Little Rock L.J. Stafford,

Separation of Powers and Arkansas Administrative Agencies: Distinguishing Judicial Power and Legislative Power, 7 U. Ark. Little Rock L.J. 279.

CASE NOTES

Constitutionality.

This section does not amount to an unconstitutional delegation of judicial power to the commissioner of labor nor is

it vague and indefinite as to method of appeal. *Thornbrough v. Williams*, 225 Ark. 709, 284 S.W.2d 641 (1955).

11-4-304. Judicial review.

(a) If either employer or employee shall fail or refuse to accept the findings of the Director of the Department of Labor, then either shall have the right to proceed at law as provided.

(b) If the claim is meritorious, and if within the discretion of the director the claimant's lack of financial ability entitles him or her to the services of the department, the director in the name of the State of Arkansas, for the benefit of the claimant, may institute action in any court of competent jurisdiction, without paying costs or giving bond for costs, and shall be entitled to all remedies available to litigants in the prosecution of actions and their enforcement, if successful.

(c) Nothing in this section shall be construed so as to relieve an unsuccessful defendant from paying costs.

History. Acts 1937, No. 86, § 2; Pope's Dig., § 8538; A.S.A. 1947, § 81-312.

RESEARCH REFERENCES

Ark. L. Rev. Constitutional Law — Separation of Powers — Legislative Delegation of Judicial Powers, 10 Ark. L. Rev. 213.

U. Ark. Little Rock L.J. Stafford,

Separation of Powers and Arkansas Administrative Agencies: Distinguishing Judicial Power and Legislative Power, 7 U. Ark. Little Rock L.J. 279.

CASE NOTES

Constitutionality.

This section does not amount to an unconstitutional delegation of judicial power to the commissioner of labor nor as

being vague and indefinite as to method of appeal. *Thornbrough v. Williams*, 225 Ark. 709, 284 S.W.2d 641 (1955).

11-4-305. Enforcement of laborer's lien.

(a) In all cases where the claimant is entitled to a laborer's lien or a lien on a thing or property worked on, the lien may be enforced as otherwise provided for by law, except that where a sheriff or constable is authorized to take charge of property subject to a lien claim and hold it subject to the decision of the court, as in cases of attachment, the sheriff or constable, upon the claimant's otherwise complying with the law regarding attachments and upon the claimant's filing an affidavit with the clerk of the court that he or she is unable to make an attachment bond, shall take the defendant's receipt for the property described in the plaintiff's statement as required by § 18-43-106, and the property shall be left in the possession of the defendant.

(b) The defendant shall exercise full dominion over the property as if it had not been attached except that he or she may not give it away. The defendant may sell, pledge, mortgage, or otherwise alienate or encumber the property if the proceeds therefrom bear a reasonable relation to the value of the lien, so that the person purchasing or taking an encumbrance upon the property shall possess superior rights to the lien claimant.

(c)(1) The defendant, however, selling or encumbering the property shall be held accountable to the court for the proceeds of the sale or encumbrance and shall file with the clerk of the court at the time of

making the sale, or charging the property with an encumbrance, a statement giving the name of the purchaser or encumbrancer, his or her address, and the amount realized from the sale or encumbrance.

(2) The defendant shall also notify the plaintiff of the filing of the statement.

(d) If, upon the successful termination of the litigation in favor of the lien claimant, the defendant fails within five (5) days to pay into the registry of the court where the action was originally instituted the proceeds from the sale or encumbrance, the defendant shall be held to be in contempt of court and punished as for contempt.

History. Acts 1937, No. 86, § 4; Pope's Dig., § 8539; A.S.A. 1947, § 81-313.

Cross References. Laborer's liens, § 18-43-101 et seq.

11-4-306. Fees prohibited.

The Director of the Department of Labor or any person designated by him or her shall not charge or be permitted to accept any fees or remuneration whatsoever from any person for the performance of any duties under this subchapter.

History. Acts 1937, No. 86, § 5; Pope's Dig., § 8540; A.S.A. 1947, § 81-314.

SUBCHAPTER 4 — PAYMENT OF WAGES

SECTION.

11-4-401. Payment semimonthly.

11-4-402. Discount for advance payment
— Payments made in currency.

11-4-403. Payment by evidence of indebtedness.

SECTION.

11-4-404. Payment by sale of goods or supplies.

11-4-405. Payment on discharge.

Effective Dates. Acts 1889, No. 61, § 4: effective on passage.

Acts 1899, No. 172, § 3: effective 90 days after passage.

Acts 1905, No. 210, § 2: effective on passage.

Acts 1907, No. 315, § 4: effective 30 days after passage.

Acts 1909, No. 13, § 3: July 1, 1909.

RESEARCH REFERENCES

Am. Jur. 48A Am. Jur. 2d, Labor, § 2581 et seq.

Ark. L. Rev. Legal Control of Business in Arkansas, 5 Ark. L. Rev. 137.

C.J.S. 30 C.J.S., Employer-Employee, § 177 et seq.

51B C.J.S., Labor, § 1175 et seq.

11-4-401. Payment semimonthly.

(a) Except as provided in subsection (c) of this section, all corporations doing business in this state who shall employ any salespersons, mechanics, laborers, or other servants for the transaction of their business shall pay the wages of the employees semimonthly.

(b) Any corporation that shall, through its president or otherwise, violate subsections (a) and (c) of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) for each offense.

(c) All corporations with an annual gross income of five hundred thousand dollars (\$500,000), or more, doing business in this state who shall employ any salespersons, mechanics, laborers, or other servants for the transaction of their business shall pay the wages of their management level and executive employees who are exempt under the provisions of Section 13 of the Fair Labor Standards Act, from the provisions of Sections 6 and 7 of that act, and who are compensated at a gross rate in excess of twenty-five thousand dollars (\$25,000) per year, at a minimum of once each calendar month.

History. Acts 1909, No. 13, §§ 1, 2, p. 21; C. & M. Dig., §§ 7131, 7132; Pope's Dig., §§ 9117, 9118; A.S.A. 1947, §§ 81-301, 81-302; Acts 1991, No. 1113, § 1.

U.S. Code. Sections 6, 7, and 13 of the Fair Labor Standards Act, referred to in this section, are codified as 29 U.S.C. §§ 206, 207, and 213.

CASE NOTES**Contract Void.**

A contract for payment other than semimonthly is void. *Arkansas Stave Co. v. State*, 94 Ark. 27, 125 S.W. 1001 (1910).

11-4-402. Discount for advance payment — Payments made in currency.

(a) It shall be unlawful for any milling or manufacturing company, or any other person, corporation, or company employing persons to labor for them in the State of Arkansas, to discount the wages of their employees or laborers when payment is made or demanded before the regular paydays more than at the rate of ten percent (10%) per annum from the date of payment to the regular payday.

(b)(1)(A) All employees shall be paid in currency or by check or electronic direct deposit into the employee's account.

(B) The employee may opt out of electronic direct deposit by providing the employer a written statement requesting payment by check.

(2) Notwithstanding any provision to the contrary, an employee has a right to be paid in currency if the employer has at any time paid the employee with a check drawn on an account with insufficient funds.

(3) This subsection (b) does not apply to any demand or claim by the Department of Labor.

(c) Any evasion or violation of this section shall be usury and a misdemeanor. The person, company, or corporation, or his, her, or its agents, violating this section shall be fined in any sum not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500), and the entire property of the person, company, or corporation shall be subject to the payment of the fine and costs.

History. Acts 1899, No. 172, §§ 1, 2, p. § 9395; A.S.A. 1947, §§ 81-303, 81-304; 310; C. & M. Dig., § 7356; Pope's Dig., Acts 2003, No. 925, § 1.

11-4-403. Payment by evidence of indebtedness.

(a) It shall be unlawful for any corporation, company, firm, or person engaged in any trade or business in this state, either directly or indirectly, to issue, sell, give, or deliver to any person employed by the corporation, company, firm, or person, in payment of wages, whether the wages are earned or not, any scrip, token, draft, check, or other evidence of indebtedness payable or redeemable otherwise than in lawful money, at the next regular payday of the corporation, company, firm, or person.

(b) If the scrip, token, draft, check, or other evidence of indebtedness is issued, sold, given, or delivered to the laborer, it shall be construed, taken, and held in all courts and places to be a promise to pay the sum specified therein in lawful money by the corporation, company, firm, or person issuing, selling, giving, or delivering the same to the person named therein or the holder thereof.

(c) The corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness in violation of subsection (a) of this section shall, moreover, be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100). At the discretion of the court trying the action, the officer or agent of the corporation, company, firm, or person issuing, selling, giving, or delivering the evidence of indebtedness may be imprisoned not less than ten (10) nor more than thirty (30) days.

(d) In any suit by any holder of the scrip, token, draft, check, or other evidence of indebtedness or in any prosecution under the provisions of this section, it shall not be required of the plaintiff in the suit or the state in the prosecution to prove that the scrip, token, draft, check, or other evidence of indebtedness was sold, given, issued, or delivered by the defendant in the suit or prosecution to any laborer or employee in payment of wages of the laborer or employee.

(e) The provisions of this section do not apply to coal mines when fewer than twenty (20) men are employed under the ground.

History. Acts 1907, No. 315, §§ 1, 3, p. Dig., §§ 9114, 9116; A.S.A. 1947, §§ 81-749; C. & M. Dig., §§ 7128, 7130; Pope's 305, 81-307.

11-4-404. Payment by sale of goods or supplies.

(a) If any corporation, company, firm, or person shall coerce or compel or attempt to coerce or compel any employee in its employment to purchase goods or supplies in payment of wages, whether the wages are earned or not, from any corporation, company, firm, or person, the first-named corporation, company, firm, or person shall be guilty of a misdemeanor and upon conviction shall be punished as provided in § 11-4-403.

(b) If any corporation, company, firm, or person shall directly or indirectly sell to any employee in payment of wages, whether earned or not, goods and supplies at prices higher than a reasonable or current market value thereof in cash, the corporation, company, firm, or person shall be liable to the employee in a civil action in double the amount of the charges made and paid for any goods and supplies in excess of the reasonable or current value in cash thereof.

(c) The provisions of this section do not apply to coal mines when fewer than twenty (20) men are employed under the ground.

History. Acts 1907, No. 315, §§ 2, 3, p. Dig., §§ 9115, 9116; A.S.A. 1947, §§ 81-349; C. & M. Dig., §§ 7129, 7130; Pope's 306, 81-307.

11-4-405. Payment on discharge.

(a)(1) Whenever any railroad company or corporation or any receiver operating any railroad engaged in the business of operating or constructing any railroad or railroad bridge shall discharge, with or without cause, or refuse to further employ any servant or employee thereof, the unpaid wages of the servant or employee then earned at the contract rate, without abatement or deduction, shall be and become due and payable on the day of the discharge or refusal to longer employ.

(2) Any servant or employee may request of his or her foreman or the keeper of his or her time to have the money due him or her, or a valid check therefor, sent to any station where a regular agent is kept. If the money or a valid check therefor does not reach the station within seven (7) days from the date it is so requested, then, as a penalty for the nonpayment, the wages of the servant or employee shall continue from the date of the discharge or refusal to further employ at the same rate until paid. However, the wages shall not continue more than sixty (60) days unless an action therefor shall be commenced within that time.

(b) This section shall apply to all companies and corporations doing business in this state and to all servants and employees thereof. Any servants or employees who shall hereafter be discharged or refused further employment may request or demand the payment of any wages due and, if not paid within seven (7) days from discharge or refusal to longer employ, then the penalties provided in subdivision (a)(2) of this section for railway employees shall attach.

(c) Any servant or employee whose employment is for a definite period of time and who is discharged without cause before the expiration of that time may, in addition to the penalties prescribed by this

section, have an action against any employer for any damages he or she may have sustained by reason of the wrongful discharge, and the action may be joined with an action for unpaid wages and penalty.

(d) No servant or employee who secretes or absents himself to avoid payment to him or her, or refuses to receive payment when fully tendered, shall be entitled to any benefit under this section for the time as he or she so avoids payment.

History. Acts 1889, No. 61, §§ 1-3, p. 76; 1903, No. 155, § 1, p. 272; 1905, No. 210, § 1, p. 537; C. & M. Dig., §§ 7125-

7127; Pope's Dig., §§ 9111-9113; A.S.A. 1947, §§ 81-308 — 81-310.

CASE NOTES

ANALYSIS

Constitutionality.

Construction.

Applicability.

Burden of Proof.

Discharge.

Evidence.

Foreman or Timekeeper.

Garnishment.

Penalty.

Refusal to Pay.

Request for Wages.

Statute of Frauds.

Constitutionality.

This section so far as it applied to natural persons was unconstitutional but as to corporations it is a valid statute. *Leep v. St. Louis, I.M. & S. Ry.*, 58 Ark. 407, 25 S.W. 75 (1894), dismissed, 159 U.S. 267, 15 S. Ct. 1042 (1894) (decision prior to 1903 amendment).

Construction.

This section is a penal one and its penalty is imposed only in favor of those who come strictly within its letter. *Missouri Pac. R.R. v. Clement*, 207 Ark. 389, 181 S.W.2d 240 (1944); *Rousseau v. Ed White Junior Shoe Co.*, 222 Ark. 240, 258 S.W.2d 240 (1953); *Howard v. Glenn Bros. Trucking*, 271 Ark. 566, 609 S.W.2d 897 (1980).

Applicability.

Subsections (a) and (b) of this section do not cover the case of an employee who voluntarily quits his employment. *Caldwell v. Missouri Pac. R.R.*, 137 Ark. 439, 208 S.W. 790 (1919).

Subsections (a) and (b) of this section do not apply to temporary work in an emer-

gency, for when the emergency ceases the work automatically terminates and such termination cannot be construed as a discharge. *Chicago, R.I. & P.R.R. v. Russell*, 173 Ark. 398, 292 S.W. 375, 51 A.L.R. 1206 (1927).

Provisions relating to penalty apply to all corporations, including railroads. *Combs v. Bunn W. Robertson, Inc.*, 205 Ark. 20, 166 S.W.2d 665 (1942).

Individuals are not liable for the penalty under the provisions of this section. *Martin v. Reynolds*, 227 Ark. 1002, 302 S.W.2d 803 (1957).

The statutory language of this section does not cover one who quits voluntarily. *Howard v. Glenn Bros. Trucking*, 271 Ark. 566, 609 S.W.2d 897 (1980).

Burden of Proof.

Burden is on employee to prove he gave notice and requested payment as provided for in the statute, that the employer did not comply with the statute and that he is entitled to the penalty. *St. Louis-San Francisco Ry. v. De Voe*, 152 Ark. 38, 237 S.W. 433 (1922); *Missouri Pac. R.R. v. Warren*, 162 Ark. 199, 258 S.W. 130 (1924).

Under this section, a servant suing a railroad to recover wages and penalty for their nonpayment has the burden of proving that he was discharged or refused further employment, that he requested his wages to be sent to the station alleged and that they were not sent there. *Missouri Pac. R.R. v. Diffie*, 184 Ark. 189, 41 S.W.2d 752 (1931).

Discharge.

Subsections (a) and (b) of this section were applicable though employee was not formally discharged where he ceased

working because corporation refused to pay him wages which he had earned and which were due, since employer's refusal to pay was, in legal effect, a discharge and a refusal to further employ. *Combs v. Bunn W. Robertson, Inc.*, 205 Ark. 20, 166 S.W.2d 665 (1942).

Occasional or special employee who quit work on his own accord, and upon his return was informed the job was nearly completed and there was no need for him to go back to work, was not an employee within the meaning of this section and had not been discharged or refused further employment; consequently employee was not entitled to the protection of this section. *Missouri Pac. R.R. v. Clement*, 207 Ark. 389, 181 S.W.2d 240 (1944).

Evidence.

Evidence sufficient to support directed verdict for employee. *Saint Louis, I.M. & S. Ry. v. McMillan*, 105 Ark. 25, 150 S.W. 112 (1912).

Finding that employees had complied with this section and that the company had failed to pay their wages at the time and place required. *Chicago, R.I. & P.R.R. v. Webb*, 168 Ark. 955, 272 S.W. 650 (1925).

Foreman or Timekeeper.

The words "foreman or keeper of his time" as used in this section refer to the immediate foreman or timekeeper and not to any superior of the discharged employee in the same department. *Bush v. Coleman*, 131 Ark. 379, 199 S.W. 87 (1917).

Trial court erred in submitting to a jury the question of whether an employee's demand for unpaid commissions was made to the employee's "foreman" or "timekeeper" as required under this section because there was no evidence of strict compliance. Therefore, an award of penalties to the employee was reversed. *McCourt Mfg. Corp. v. Rycroft*, 102 Ark. App. 272, 284 S.W.3d 84 (2008), rehearing denied, *McCourt v. Rycroft*, — Ark. —, — S.W.3d —, 2008 Ark. App. LEXIS 534 (June 25, 2008), superseded, 2009 Ark. 332, 322 S.W.3d 491 (2009).

Garnishment.

Service of a writ of garnishment on the employer stops the running of the statute. *St. Louis, I. M. & S. R. Co. v. Walsh*, 86 Ark. 147, 110 S.W. 222 (1908).

Penalty.

Additional amount allowed constituted exemplary damages and not a statutory penalty and therefore justice of the peace had jurisdiction. *Leep v. St. Louis, I.M. & S. Ry.*, 58 Ark. 407, 25 S.W. 75 (1894), dismissed, 159 U.S. 267, 15 S. Ct. 1042 (1894).

Where it is agreed that payment may be made at the next regular pay day, and the employee sues before that time, he cannot recover the penalty. *St. Louis, I. M. & S. R. Co. v. Broomfield*, 83 Ark. 288, 104 S.W. 133 (1907); *Saint Louis, I.M. & S. Ry. v. Hill*, 92 Ark. 484, 123 S.W. 760 (1909).

Before penalty can be recovered it must appear that there are unpaid wages due employee, after allowing all payments in money, goods, or otherwise or any other credit which the parties have validly contracted should go against the wages. *Stewart & Alexander Lumber Co. v. Weaver*, 83 Ark. 445, 104 S.W. 152 (1907).

Tender of wages with interest stops the penalty. *Saint Louis, I.M. & S. Ry. v. Bryant*, 92 Ark. 425, 122 S.W. 996 (1909).

Employee held not entitled to recover penalty. *Hall v. Chicago, R. I. & P. R. Co.*, 96 Ark. 634, 132 S.W. 911 (1910); *Largent v. Arkansas N.W.R.R.*, 125 Ark. 355, 188 S.W. 836 (1916).

Refusal to Pay.

Refusal of plaintiff to vacate a house on defendant's premises was not sufficient to justify refusal to pay earned wages. *Grayson-McLeod Lumber Co. v. Johnson*, 103 Ark. 266, 146 S.W. 141 (1912).

Request for Wages.

Where a discharged employee agreed to receive his earned wages within three days at a specific station and called therefor after three days, he was under no obligation to call for his paycheck thereafter and was entitled to recover the statutory penalty. *Saint Louis S.W. Ry. v. Brown*, 75 Ark. 137, 86 S.W. 994 (1905).

Where a discharged employee neither called for his pay after expiration of seven days nor notified the employer where to send his paycheck he was not entitled to recover the statutory penalty. *Wisconsin & Ark. Lumber Co. v. Reaves*, 82 Ark. 377, 102 S.W. 206 (1907); *St. Louis, I. M. & S. R. Co. v. Bailey*, 87 Ark. 132, 112 S.W. 180 (1908); *Wisconsin & Ark. Lumber Co. v. Thompson*, 87 Ark. 574, 113 S.W. 340

(1908); *St. Louis, I. M. & S. R. Co. v. McClerkin*, 88 Ark. 277, 114 S.W. 240 (1908); *Lusk v. Jones*, 128 Ark. 312, 194 S.W. 250 (1917).

Where a discharged employee's foreman notified him that his money would be sent to a certain station, and the employee acquiesced, this was equivalent to a request by the employee to have the money sent to the station and sufficient to entitle him to recover the statutory penalty for failure to send the money. *Biggs v. St. Louis, I.M. & S. Ry.*, 91 Ark. 122, 120 S.W. 970 (1909).

This section is penal in nature and recovery cannot be had under it unless the discharged employee shows that he has made a distinct demand in accordance with the terms of the statute. *Bush v. Coleman*, 131 Ark. 379, 199 S.W. 87 (1917).

In order to collect the penalty, an employee must show either that during the seven days of grace he requested the employer to send the payment to a specified mailing address or that not having made the request he renewed his demand for payment after the expiration of the seven-day period. *Rousseau v. Ed White Junior Shoe Co.*, 222 Ark. 240, 258 S.W.2d 240 (1953).

It matters not that an employer may have the discharged person's address

somewhere in his files; in order to comply with this section the discharged person must, during the seven-day grace period, leave a specified mailing address. *Rousseau v. Ed White Junior Shoe Co.*, 222 Ark. 240, 258 S.W.2d 240 (1953).

Where a discharged employee neither called for his pay after expiration of seven days nor notified the employer where to send his paycheck but instead entered into an agreement with the former employer to sell certain property in order to get the pay due him, he was not entitled to recover a penalty. *H. & P. Mfg. Co. v. Hanson*, 222 Ark. 566, 261 S.W.2d 800 (1953).

In a dispute between an employee and an employer on the issue of unpaid commissions, a trial court erred in assessing a penalty against the employer because the employee failed to show that he strictly complied with this section by demanding his unearned but unpaid wages from his employer within seven days. *McCourt Mfg. Corp. v. Rycroft*, 2009 Ark. 332, 322 S.W.3d 491 (2009).

Statute of Frauds.

This section does not in any manner repeal or replace the Statute of Frauds. *Harris v. Arkansas Book Co.*, 287 Ark. 353, 700 S.W.2d 41 (1985).

Cited: *Magness v. Masonite Corp.*, 12 Ark. App. 117, 671 S.W.2d 230 (1984).

SUBCHAPTER 5 — FEMALE EMPLOYEES GENERALLY

SECTION.

11-4-501 — 11-4-506. [Repealed.]

11-4-501 — 11-4-506. [Repealed.]

Publisher's Notes. This subchapter, concerning female employees generally, was repealed by Acts 1991, No. 332, § 1. The subchapter was derived from the following sources:

11-4-501. Acts 1915, No. 191, § 6; C. & M. Dig., § 7107; Pope's Dig., § 9093; A.S.A. 1947, § 81-612.

11-4-502. Acts 1915, No. 191, § 3; C. & M. Dig., § 7104; Pope's Dig., § 9086; Acts 1943, No. 274, § 1; 1955, No. 257, § 1; A.S.A. 1947, § 81-609.

11-4-503. Acts 1915, No. 191, § 8; C. & M. Dig., § 7109; Acts 1921, No. 140, § 1; Pope's Dig., § 9095; Acts 1943, No. 70, § 2; A.S.A. 1947, § 81-614.

11-4-504. Acts 1915, No. 191, § 5; C. & M. Dig., § 7106; Pope's Dig., § 9092; A.S.A. 1947, § 81-611.

11-4-505. Acts 1915, No. 191, § 4; C. & M. Dig., § 7105; Pope's Dig., § 9091; A.S.A. 1947, § 81-610.

11-4-506. Acts 1953, No. 217, § 1; A.S.A. 1947, § 81-622.

SUBCHAPTER 6 — WAGE DISCRIMINATION

SECTION.

11-4-601. Discrimination on the basis of sex prohibited.

11-4-602 — 11-4-606. [Reserved.]

11-4-607. Definitions for §§ 11-4-608 — 11-4-612.

11-4-608. Penalties for violation of §§ 11-4-607 — 11-4-612.

SECTION.

11-4-609. Administration of §§ 11-4-607 — 11-4-612.

11-4-610. Wage discrimination between sexes prohibited.

11-4-611. Action to collect unpaid wages.

11-4-612. Employer to keep records.

RESEARCH REFERENCES

Ark. L. Rev. Note, County of Washington v. Gunther: A Restricted Ticket for Sex Based Wage Discrimination Claims?, 35 Ark. L. Rev. 563.

C.J.S. 51B C.J.S., Labor, § 1184.

CASE NOTES

Cited: King v. Consolidated Freightways Corp., 763 F. Supp. 1014 (W.D. Ark. 1991).

11-4-601. Discrimination on the basis of sex prohibited.

(a) Every employer in the state shall pay employees equal compensation for equal services, and no employer shall discriminate against any employee in the matter of wages or compensation solely on the basis of the sex of the employee.

(b) An employer who violates or fails to comply with the provisions of this section shall be guilty of a Class C misdemeanor, and each day that the violation or failure to comply continues shall be a separate offense.

History. Acts 1977, No. 282, §§ 1, 2; partially supersede §§ 11-4-607 — 11-4-612. A.S.A. 1947, §§ 81-333, 81-334.

Publisher's Notes. This section may

11-4-602 — 11-4-606. [Reserved.]

11-4-607. Definitions for §§ 11-4-608 — 11-4-612.

As used in §§ 11-4-608 — 11-4-612, unless the context otherwise requires:

(1)(A) "Employees" shall mean any person employed for hire in any lawful business, industry, trade, profession, or enterprise.

(B) However, it shall not include persons engaged in domestic service in the home of the employer; in agricultural service, or in temporary or seasonal employment; employees of any social club,

fraternal, charitable, educational, religious, scientific, or literary association, no part of the net earnings of which inures to the benefit of any private individual;

(2) "Employer" shall include any person, natural or artificial, acting in the interest of an employer directly or indirectly; and

(3) "Employment" means any employment under contract of hire, expressed or implied, written or oral.

History. Acts 1955, No. 361, § 1; A.S.A. 1947, § 81-623.

— 11-4-612 may be partially superseded by § 11-4-601.

Publisher's Notes. Sections 11-4-607

CASE NOTES

Voluntary Termination.

There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of

those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

Cited: *Meredith v. Dillard Dep't Stores, Inc.*, 272 Ark. 498, 616 S.W.2d 471 (1981).

11-4-608. Penalties for violation of §§ 11-4-607 — 11-4-612.

Any employer who violates any provision of §§ 11-4-607 — 11-4-612, or who discharges or in any other manner discriminates against any employee because the employee has made a complaint to his or her employer, the Director of the Department of Labor, or any other person, has instituted or caused to be instituted any proceedings under or related to §§ 11-4-607 — 11-4-612, or has testified or is about to testify in any such proceeding shall be fined not more than five hundred dollars (\$500) nor imprisoned more than one (1) year, or both.

History. Acts 1955, No. 361, § 6; A.S.A. 1947, § 81-628.

be partially superseded. See publisher's note to § 11-4-607.

Publisher's Notes. This section may

CASE NOTES

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There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of

those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

Cited: *Meredith v. Dillard Dep't Stores, Inc.*, 272 Ark. 498, 616 S.W.2d 471 (1981).

11-4-609. Administration of §§ 11-4-607 — 11-4-612.

The Director of the Department of Labor shall have the power and it shall be his or her duty to carry out and administer the provisions of §§ 11-4-607 — 11-4-612.

History. Acts 1955, No. 361, § 3; A.S.A. 1947, § 81-625.

Publisher's Notes. This section may

be partially superseded. See publisher's note to § 11-4-607.

CASE NOTES

Voluntary Termination.

There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of

those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

Cited: *Meredith v. Dillard Dep't Stores, Inc.*, 272 Ark. 498, 616 S.W.2d 471 (1981).

11-4-610. Wage discrimination between sexes prohibited.

(a) No employer shall discriminate in the payment of wages as between the sexes or shall pay any female in his or her employ salary or wage rates less than the rates paid to male employees for comparable work.

(b) Nothing in §§ 11-4-607 — 11-4-612 shall prohibit a variation in rates of pay based upon a difference in seniority, experience, training, skill, ability, differences in duties and services performed, differences in the shift or time of the day worked, or any other reasonable differentiation except difference in sex.

History. Acts 1955, No. 361, § 2; A.S.A. 1947, § 81-624.

Publisher's Notes. This section may

be partially superseded. See publisher's note to § 11-4-607.

CASE NOTES

Voluntary Termination.

There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of

those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

Cited: *Meredith v. Dillard Dep't Stores, Inc.*, 272 Ark. 498, 616 S.W.2d 471 (1981).

11-4-611. Action to collect unpaid wages.

(a) An employer who violates the provisions of § 11-4-610 shall be liable to the employee or employees affected in the amount of their unpaid wages.

(b)(1) Action to recover the wages may be maintained in any court of competent jurisdiction by any one (1) or more employees.

(2) Any agreement between the employer and the employee to work for less than the wage to which the employee is entitled under §§ 11-4-607 — 11-4-612 shall be no defense to the action.

(3) In addition to any wages recovered, the court in the action shall allow an additional equal amount as liquidated damages plus a reasonable attorney's fee and court costs.

(4) At the request of any employee paid less than the wage to which he or she is entitled under §§ 11-4-607 — 11-4-612, the Director of the

Department of Labor may take an assignment of the wage claim in trust for the employee and shall bring any legal action necessary to collect the claim. The director shall not be required to pay any court costs in connection with the action.

(c) Any action to recover wages and liquidated damages based on violation of § 11-4-610 must be commenced within two (2) years of the accrual thereof and not afterwards.

History. Acts 1955, No. 361, §§ 4, 7; be partially superseded. See publisher's note to § 11-4-607.

Publisher's Notes. This section may

CASE NOTES

ANALYSIS

Evidence.

Voluntary Termination.

Evidence.

Evidence that male employee received higher wages than female employee during the same period was properly admitted to determine wages due plaintiff under this section, but plaintiff was only entitled to wages for the period for which such proof provided. *Meredith v. Dillard*

Dep't Stores, Inc., 272 Ark. 498, 616 S.W.2d 471 (1981).

Voluntary Termination.

There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

11-4-612. Employer to keep records.

(a) Every employer subject to §§ 11-4-607 — 11-4-612 shall keep and maintain records of the salaries and wage rates, job classifications, and other terms and conditions of employment of the persons employed by him or her and the records shall be preserved for a period of three (3) years.

(b) The records shall also be made available to the parties and to the court wherein an action to recover unpaid wages under this subchapter is pending.

History. Acts 1955, No. 361, § 5; A.S.A. 1947, § 81-627. be partially superseded. See publisher's note to § 11-4-607.

Publisher's Notes. This section may

CASE NOTES

Voluntary Termination.

There is nothing in §§ 11-4-607—11-4-612 which even remotely suggests that an employee may voluntarily quit her job because of an isolated incident which might arguably be in violation of one of

those sections and thereby preserve unemployment insurance benefits. *Graham v. Daniels*, 269 Ark. 717, 601 S.W.2d 225 (Ct. App. 1980).

Cited: *Meredith v. Dillard Dep't Stores, Inc.*, 272 Ark. 498, 616 S.W.2d 471 (1981).

CHAPTER 5

WORKING CONDITIONS GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. INDUSTRIAL HEALTH SERVICE ACT.
3. WORK NEAR HIGH VOLTAGE LINES.
4. GENETIC INFORMATION IN THE WORKPLACE.

RESEARCH REFERENCES

ALR. Employer's tort liability to worker for concealing workplace hazard or nature or extent of injury. 9 A.L.R.4th 778.

Labor union's liability for injury or death allegedly resulting from unsafe working conditions. 14 A.L.R.4th 1161.

Liability of employer with regard to inherently dangerous work for injuries to employees of independent contractor. 34 A.L.R.4th 914.

Discharge of employee for complaining about wages, hours, or working conditions. 35 A.L.R.4th 1031.

Liability for retaliation against at-will employee for public complaints or efforts relating to health or safety. 75 A.L.R.4th

13.

Employer's liability for injury to babysitter in home or similar premises. 29 A.L.R.4th 304.

Employer's liability to employee or agent for injury or death resulting from assault or criminal attack by third person. 40 A.L.R.5th 1.

Sexual harassment on the job as violation of state civil rights law. 18 A.L.R.4th 328.

Am. Jur. 27 Am. Jur. 2d, Emp. Relationship, § 293 et seq.

C.J.S. 30 C.J.S., Emp. Liability, § 52 et seq.

51 C.J.S., Labor, § 11.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 11-5-101. Suitable temperature, humidity, and air space required.
- 11-5-102. Removal of gas, effluvia, and dust required.
- 11-5-103. Cleaning required.
- 11-5-104. Wet floors — Certain precautions required.
- 11-5-105. Safe doors, stairways, and elevators required.
- 11-5-106. [Repealed.]
- 11-5-107. Inspection of working place — Findings.
- 11-5-108. Order to correct conditions — Issuance.
- 11-5-109. Order to correct conditions — Conclusiveness — Action to set aside.

SECTION.

- 11-5-110. Order to correct conditions — Penalties for noncompliance.
- 11-5-111. Penalty for violation of §§ 11-5-101 — 11-5-110.
- 11-5-112. Separate toilet rooms for males and females required.
- 11-5-113. [Repealed.]
- 11-5-114. Requiring use of out-of-state mail-order pharmacy.
- 11-5-115. Prevention of workplace violence.
- 11-5-116. Break time for expressing breast milk.

Effective Dates. Acts 1913, No. 235, § 3: approved Mar. 29, 1913. Emergency declared.

Acts 1987, No. 489, § 6: became law without Governor's signature, Mar. 31, 1987. Emergency clause provided: "It has

been found and it is hereby declared by the General Assembly of the State of Arkansas that citizens of Arkansas are being denied or restricted in their ability to obtain immediate and locally available pharmacy services and that this act is immediately necessary for the protection

and preservation of the health, safety, and welfare of the people. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

11-5-101. Suitable temperature, humidity, and air space required.

(a) In every factory, mill, workshop, mercantile establishment, laundry, or other establishment, adequate measures shall be taken for securing and maintaining a reasonable, and as far as possible, an equable temperature consistent with the reasonable requirements of the manufacturing process.

(b) No unnecessary humidity which would jeopardize the health of employees shall be permitted.

(c) In every room, apartment, or building used as a factory, mill, workshop, mercantile establishment, laundry, or other place of employment, sufficient air space shall be provided for every employee which in the judgment of the Director of the Department of Labor or of his or her deputies and inspectors is sufficient for the employees health and welfare.

History. Acts 1937, No. 323, § 1; Pope's Dig., § 6469; A.S.A. 1947, § 81-401.

11-5-102. Removal of gas, effluvia, and dust required.

(a) All factories, mills, workshops, mercantile establishments, laundries, and other establishments shall be kept free from gas or effluvia arising from any sewer, drain, privy, or other nuisance on the premises.

(b) All poisonous or noxious gases arising from any process and all dust which is injurious to the health of persons employed which is created in the process of manufacturing within the above-named establishments shall be removed as far as practicable by ventilators, exhaust fans, or other adequate devices.

History. Acts 1937, No. 323, § 2; Pope's Dig., § 6470; A.S.A. 1947, § 81-402.

CASE NOTES

Assumption of Risk.

Under § 11-8-105, employee does not assume the risk of contracting occupational disease if the disease results from

the failure of his employer to comply with the provisions of any statute enacted for his safety. *Barksdale v. Silica Prods. Co.*, 200 Ark. 32, 137 S.W.2d 901 (1940).

11-5-103. Cleaning required.

(a) All decomposed, fetid, or putrescent matter and all refuse, waste, and sweepings of any factory, mill, workshop, mercantile establishment, laundry, or other establishment shall be removed at least once each day and be disposed of in such manner as not to cause a nuisance.

(b) All cleaning, sweeping, and dusting shall be done as far as possible outside of working hours, but if done during working hours, shall be done in such a manner as to avoid, as far as possible, the raising of dust and noxious odors.

History. Acts 1937, No. 323, § 3; Pope's Dig., § 6471; A.S.A. 1947, § 81-403.

11-5-104. Wet floors — Certain precautions required.

(a) In all establishments where any process is carried on which makes the floors wet, the floors shall be constructed and maintained with due regard for the health of the employees.

(b) Gratings or dry standing room shall be provided wherever practicable at points where employees are regularly stationed.

(c) Adequate means shall be provided for drainage and for the prevention of leakage or seepage to lower floors.

History. Acts 1937, No. 323, § 3; Pope's Dig., § 6471; A.S.A. 1947, § 81-403.

11-5-105. Safe doors, stairways, and elevators required.

(a) All doors used by employees as entrances to or exits from factories, mills, workshops, mercantile establishments, laundries, or other establishments of a height of two (2) stories or over shall open outward and shall be so constructed as to be easily and immediately opened from within in case of fire or other emergencies.

(b) Proper and substantial handrails shall be provided on all stairways.

(c) Lights shall be kept burning at all main stairs, stair landings, and elevator shafts in the absence of sufficient natural light.

(d) The provisions of this section shall not apply to any mercantile establishments having fewer than three (3) female employees.

History. Acts 1937, No. 323, § 4; Pope's Dig., § 6472; A.S.A. 1947, § 81-404.

11-5-106. [Repealed.]

Publisher's Notes. This section, concerning the prohibition of workplace conduct calculated to injuriously affect the morals of the female employees, was re-

pealed by Acts 2003, No. 289, § 1. The section was derived from Acts 1937, No. 323, § 5; Pope's Dig., § 6473; A.S.A. 1947, § 81-405.

11-5-107. Inspection of working place — Findings.

(a) The Director of the Department of Labor or any of his or her deputies or inspectors shall have the right to enter any factory, mill, workshop, mercantile establishment, laundry, or other establishment where three (3) or more persons are employed for the purpose of making inspections and enforcing the provisions of §§ 11-5-101 — 11-5-111.

(b) They are empowered upon finding any violation of §§ 11-5-101 — 11-5-111 by reason of unsanitary conditions which will endanger the health of the employees therein employed, by reason of neglect to remove and prevent fumes and gases or odor injurious to employees, by reason of the failure or refusal to comply with any requirement of §§ 11-5-101 — 11-5-111, or by reason of the inadequacy or insufficiency of any plan, method, practice, or device employed in assumed compliance with any of the requirements of §§ 11-5-101 — 11-5-111 to pass upon and to make a written finding as to the failure or refusal to comply with any requirement of §§ 11-5-101 — 11-5-111 or as to adequacy or sufficiency of any practice, plan, or method used in or about any place mentioned in §§ 11-5-101 — 11-5-111 in supposed compliance with any of the requirements of §§ 11-5-101 — 11-5-111.

History. Acts 1937, No. 323, § 6; Pope's Dig., § 6474; A.S.A. 1947, § 81-406.

11-5-108. Order to correct conditions — Issuance.

(a) The Director of the Department of Labor or any of his or her deputies or inspectors may issue a written order to the owner, manager, superintendent, or other person in control or management of the place or establishment for the correction of any condition caused or permitted in or about the place or establishment in violation of any of the requirements of §§ 11-5-101 — 11-5-111, or of any condition, practice, plan, or method used therein or thereabouts in supposed compliance with any requirement of §§ 11-5-101 — 11-5-111 but which are found to be inadequate or insufficient, in any respect, to comply therewith, and shall state in the order how the conditions, practices, plans, or methods, in any case, shall be corrected and the time within which they shall be corrected, a reasonable time being given in the order therefor.

(b) One (1) copy of the order shall be delivered to the owner, manager, superintendent, or other person in control or management of the place or establishment, and one (1) copy shall be filed in the office of the Department of Labor.

History. Acts 1937, No. 323, § 6; Pope's Dig., § 6474; A.S.A. 1947, § 81-406.

11-5-109. Order to correct conditions — Conclusiveness — Action to set aside.

(a) The findings and orders shall be prima facie valid, reasonable, and just and shall be conclusive unless attacked and set aside in the manner provided in subsections (b) and (c) of this section.

(b)(1) The owner or owners, manager, superintendent, or other person in control or management of any place or establishment covered by this chapter, and directly affected by any finding or order provided for in §§ 11-5-107 and 11-5-108, may, within fifteen (15) days from the date of the delivery to him, her, or them of a copy of the order as provided for in §§ 11-5-107 and 11-5-108, file a petition setting forth the particular cause of objection to the order and findings in a court of competent jurisdiction against the Director of the Department of Labor.

(2) The action shall have precedence over all other causes of a different nature and shall be tried and determined as other civil causes in the court.

(3) If the court is in session at the time the cause of action arises, the suit may be filed during the term and stand ready for trial after ten (10) days' notice.

(c)(1) Either party may appeal but shall not have the right to sue out a writ of error from the trial court.

(2) The appeal shall at once be returnable to the proper appellate court at either of its terms and shall have precedence in the appellate court over other causes of a different nature.

(d) In any trial under this section, the burden shall be upon the plaintiff to show that the findings and order complained of are illegal, unreasonable, or unjust to the plaintiff.

History. Acts 1937, No. 323, §§ 6, 7;
Pope's Dig., §§ 6474, 6475; A.S.A. 1947,
§§ 81-406, 81-407.

11-5-110. Order to correct conditions — Penalties for noncompliance.

(a) Upon the failure or refusal of the owner, manager, superintendent, or other person in control or management of a place or establishment, to comply with an order issued pursuant to § 11-5-108 within the time therein specified, unless it has been attacked and suspended or set aside as provided for in § 11-5-109, the Director of the Department of Labor or his or her deputy or inspectors shall have full authority and power to close the place or establishment, or any part of it that may be in an unsanitary or dangerous condition or contain immoral influences in violation of any requirement of §§ 11-5-101 — 11-5-110 or order, until such time as the condition, practice, or method is corrected.

(b) Any person in control or management of any establishment included in § 11-5-109 who shall fail or refuse to comply with any written order issued to the person by the director or any of his or her deputies or inspectors, for the correction of any condition caused or

permitted therein which endangers the health of the employees therein or which does not comply with the law governing those establishments, shall be punished as provided in § 11-5-111.

History. Acts 1937, No. 323, §§ 6, 8; Pope's Dig., §§ 6474, 6476; A.S.A. 1947, §§ 81-406, 81-408.

11-5-111. Penalty for violation of §§ 11-5-101 — 11-5-110.

(a) Any employer violating the provisions of §§ 11-5-101 — 11-5-110 shall be deemed guilty of a misdemeanor.

(b)(1) Upon conviction, the employer shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

(2) Each day's violation shall constitute a separate offense and shall be punished as such.

History. Acts 1937, No. 323, § 9; Pope's Dig., § 6477; A.S.A. 1947, § 81-409.

11-5-112. Separate toilet rooms for males and females required.

(a) There shall be provided in every factory, manufacturing establishment, workshop, or other place where six (6) or more males and females are employed separate toilets and washrooms for males and females.

(b)(1) The Director of the Department of Labor shall enforce the provisions of this section and shall give notice in writing to employers violating it.

(2) Upon failure to comply with the provisions of this section after thirty (30) days from the notice, the employers shall be liable to penalties provided in subsection (c) of this section.

(c)(1) Any firm, person, or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

(2) Each day shall constitute a separate offense.

(d) This section shall not repeal any laws now in force but shall be cumulative thereto.

History. Acts 1919, No. 265, §§ 1-4; C. §§ 9102-9104; A.S.A. 1947, §§ 81-410 — & M. Dig., §§ 7116-7118; Pope's Dig., §§ 81-413; Acts 1997, No. 300, § 1.

11-5-113. [Repealed.]

Publisher's Notes. This section, concerning seats to be furnished for females, was repealed by Acts 1997, No. 300, § 2. The section was derived from Acts 1913,

No. 235, §§ 1, 2; C. & M. Dig., §§ 7100, 7101; Pope's Dig., §§ 9082, 9083; A.S.A. 1947, §§ 81-620, 81-621.

11-5-114. Requiring use of out-of-state mail-order pharmacy.

(a) It shall be unlawful for any employer providing pharmacy services, including prescription drugs, to employees as a part of a health care program to require the employee to obtain drugs from an out-of-state mail-order pharmacy as a condition of obtaining the employer's payment for the prescription drugs or to impose upon an employee not utilizing an out-of-state mail-order pharmacy designated by the employer a copayment fee or other condition not imposed upon employees utilizing the designated out-of-state mail-order pharmacy.

(b)(1) This section shall not apply to any employer who:

(A) Offers, as a part of a health care program, health insurance coverage to employees that provides for payment of an equal portion of the cost to the employee for prescription drugs regardless of the supplier if the health insurance plan allows the employee freedom of choice in determining where the drugs are purchased; or

(B) Had in force effective January 1, 1987, a mail-order prescription drug plan for employees.

(2) The provisions of this section shall not be applicable to health care programs in existence on March 30, 1987.

(c)(1) Any person or entity violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

(2) Each violation shall constitute a separate offense.

History. Acts 1987, No. 489, §§ 1-4.

11-5-115. Prevention of workplace violence.

(a) If an employer or an employer's employee or invitee has:

(1) Suffered unlawful violence by an individual as defined by § 5-13-310, terroristic act; § 5-14-103, rape; §§ 5-13-201 — 5-13-203, battery; §§ 5-26-301 — 5-26-309, domestic battering and assault on a family or household member; or a crime of violence as defined by § 5-73-202(1);

(2) Received a threat of violence by an individual which can reasonably be construed as a threat which may be carried out at the work site as defined by § 5-13-301, terroristic threatening; § 5-38-202, threatening a catastrophe; §§ 5-13-204 — 5-13-207, assault; or §§ 5-26-304 — 5-26-306, domestic battering; or

(3) Been stalked or harassed at the work site as defined by § 5-71-213, loitering; § 5-39-203, criminal trespass; § 5-71-208, harassment; or § 5-71-229, stalking, the employer may, in addition to, or instead of, filing criminal charges against the individual, seek a temporary restraining order, a preliminary injunction, or an injunction under Arkansas Rule of Civil Procedure 65 prohibiting further unlawful acts by that individual at the work site, which shall include any place at which work is being performed on behalf of the employer.

(b)(1) Proof by a preponderance of the evidence of any action described in subsection (a) of this section shall constitute irreparable harm or damage to the employer or employer's employee or invitee.

(2) Upon the granting of any restraining order, preliminary injunction, or injunction, the court may, among other appropriate orders:

(A) Order the defendant not to visit, assault, molest, or otherwise interfere with the employer or the employer's operations or the employer's employee or invitee at the employer's work site;

(B) Order the defendant to cease stalking the employer's employee or invitee at the employer's work site;

(C) Order the defendant to cease harassment of the employer or the employer's employee or invitee at the employer's work site;

(D) Order the defendant not to abuse or injure the employer, including the employer's property, or the employer's employee or invitee at the employer's work site;

(E) Order the defendant not to telephone the employer or the employer's employee or invitee at the employer's work site; or

(F) Such other necessary and appropriate relief as is deemed appropriate in the discretion of the court.

(c) When necessary to protect the employer or the employer's employee, invitee, or property, and when authorized by the court, temporary restraining orders, preliminary injunctions, and injunctions granted under this section may be served upon the defendant by a peace officer, sheriff, constable, police officer, other law enforcement officer whose duty it is to preserve the peace, or by any other person authorized by law to serve process, with appropriate orders to the officials to enforce the court's order.

(d) Unless specifically modified or terminated by the issuing judge, all orders and injunctions issued under this section shall have state-wide validity and may be enforced by the issuing court for any violation anywhere in the state and by any court of competent jurisdiction within the state for violations which may occur within that court's jurisdiction.

(e) All orders and injunctions issued under this section shall contain language directing appropriate law enforcement agencies to enforce the court's orders.

(f) Unless lack of good faith is shown by clear and convincing evidence, an employer and an employer's agents who act in accord with this section shall be presumed to be acting in good faith and are immune from civil liability for actions taken under this section.

(g) Any employer, or its employee or invitee, which does not utilize the procedures of this section shall not be liable for negligence, nor shall evidence of the same be admissible as evidence of negligence.

(h)(1) This section is not applicable in circumstances where an employee or the employee's representative is engaged in union organizing, union activity, a labor dispute, or any activity or action arguably protected by the National Labor Relations Act.

(2) Nothing in this section is intended to change the act's preemptive regulation of legally protected activities nor to change the right of the

State of Arkansas and its courts to regulate activities not protected by the act.

History. Acts 2001, No. 1084, § 1. tions Act, referred to in (h)(1), is codified
U.S. Code. The National Labor Rela- as 29 U.S.C.S. § 151 et seq.

11-5-116. Break time for expressing breast milk.

(a)(1) An employer shall provide reasonable unpaid break time each day to an employee who needs to express breast milk for her child in order to maintain milk supply and comfort.

(2) To the extent possible, the break time required under subdivision (a)(1) of this section shall run concurrently with any paid or unpaid break time already provided to the employee.

(b)(1) An employer shall make a reasonable effort to provide a private, secure, and sanitary room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her breast milk.

(2) The room or location provided under subdivision (b)(1) of this section may include the employee's normal work space if the employee's normal work space meets the requirements of this section.

(c) This section does not require an employer to provide break time if to do so would create an undue hardship on the operations of the employer.

(d) The employee shall make reasonable efforts to minimize disruption to the employer's operations.

History. Acts 2009, No. 621, § 1.

SUBCHAPTER 2 — INDUSTRIAL HEALTH SERVICE ACT

SECTION.

- 11-5-201. Title.
- 11-5-202. Exception.
- 11-5-203. Penalty.
- 11-5-204. Division of Industrial Hygiene
— Creation — Duties.
- 11-5-205. State Board of Health — Rules
and regulations.
- 11-5-206. Director of Department of

SECTION.

- Health — Access to certain buildings.
- 11-5-207. Use of injurious material, process, or condition prohibited.
- 11-5-208. Use of information from studies or investigations.

Effective Dates. Acts 1947, No. 350, § 11: Mar. 28, 1947. Emergency clause provided: "In view of the fact that a small number of employers have not voluntarily taken steps that have been taken by a great majority of others to protect workers from industrial hazards, this act is neces-

sary for protection of the public health. An emergency is, therefore, declared to exist and this act being necessary for preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval."

11-5-201. Title.

This subchapter shall be cited as the "Industrial Health Service Act of 1947".

History. Acts 1947, No. 350, § 1; A.S.A. 1947, § 81-414.

11-5-202. Exception.

Nothing in this subchapter shall be construed as applying to the coal mining industry.

History. Acts 1947, No. 350, § 1; A.S.A. 1947, § 81-414.

11-5-203. Penalty.

(a)(1) Any person, firm, or corporation who shall neglect or refuse to comply with the provisions of this subchapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) for each offense.

(2) Each day any employer neglects or refuses to comply with the provisions of this subchapter shall constitute a separate offense.

(b) It shall be the duty of the prosecuting attorney to prosecute violations of this subchapter.

History. Acts 1947, No. 350, § 8; A.S.A. 1947, § 81-421.

11-5-204. Division of Industrial Hygiene — Creation — Duties.

(a) The Division of Industrial Hygiene is established as one of the offices over which the State Board of Health maintains supervision.

(b) The division shall investigate places of employment and study those conditions which might be responsible for ill health of the industrial worker.

History. Acts 1947, No. 350, §§ 2, 3; A.S.A. 1947, §§ 81-415, 81-416.

11-5-205. State Board of Health — Rules and regulations.

It shall be the duty of the State Board of Health to adopt rules and regulations pertaining to the control of industrial health hazards, including and concerning the maximum allowable limits of materials, ventilation requirements, water supplies, excreta disposal facilities, washing and shower facilities, and other matters pertaining to the maintenance of the health of the worker.

History. Acts 1947, No. 350, § 4; A.S.A. 1947, § 81-417.

Cross References. Rules of Director of the Department of Labor, § 11-2-110.

11-5-206. Director of Department of Health — Access to certain buildings.

The Director of the Department of Health or his or her duly authorized deputy shall have access to any firm, corporation, industry, or manufacturing plant for the proper discharge of his or her official duties.

History. Acts 1947, No. 350, § 5; A.S.A. 1947, § 81-418.

11-5-207. Use of injurious material, process, or condition prohibited.

(a) It shall be a violation of this subchapter for any employer to use or permit to be used in the conduct of his or her business, manufacturing establishment, or other place of employment any material, process, or condition known to have an adverse effect on health.

(b) However, that material, process, or condition may be used when it is operated, handled, or used in such a manner that injury to the health of the worker will not occur.

(c) It shall be the duty of the Division of Industrial Hygiene to evaluate and determine whether the material, process, or condition is being operated, handled, or used in such a manner that injury to the health of the worker will not occur.

History. Acts 1947, No. 350, § 7; A.S.A. 1947, § 81-420.

11-5-208. Use of information from studies or investigations.

(a) Information obtained from studies or upon investigations made in accordance with the provisions of this subchapter shall not be admissible as evidence in any action at law to recover damages for personal injury or in any action under the Workers' Compensation Law, § 11-9-101 et seq.

(b) By mutual agreement between the Division of Industrial Hygiene and those charged with the administration of the Workers' Compensation Law, § 11-9-101 et seq., studies at the request of the latter may be instituted in industries, and the results of these studies may be reported to the administrators.

History. Acts 1947, No. 350, § 6; A.S.A. 1947, § 81-419.

SUBCHAPTER 3 — WORK NEAR HIGH VOLTAGE LINES**SECTION.**

11-5-301. Purpose.

11-5-302. Definitions.

11-5-303. Application of National Electrical Safety Code.

SECTION.

11-5-304. Exceptions.

11-5-305. Penalty for violations.

11-5-306. Use of alternative devices or methods.

SECTION.

11-5-307. Notification.

11-5-308. Prohibited acts.

SECTION.

11-5-309. Warning signs.

Effective Dates. Acts 1963, No. 148, § 11: Mar. 4, 1963. Emergency clause provided: "It has been found and is declared by the General Assembly that existing laws presenting safety precautions to be taken in the proximity of overhead high voltage electrical lines for the prevention of accidents are inadequate; that this situation results in unnecessary danger to

persons and property; and that enactment of this measure will provide the needed remedy. An emergency is therefore declared to exist, and this act, being necessary for the preservation of the public peace, health, and safety, shall take effect and be in force from the date of its approval."

RESEARCH REFERENCES

ALR. Liability for injury or death resulting when object is manually brought into contact with, or close proximity to, electric line. 33 A.L.R.4th 809.

Ark. L. Rev. Torts-Negligence: Effect of Violation of Safety Statutes on the Admis-

sibility of Evidence of Custom and Industry Standards, 28 Ark. L. Rev. 397.

U. Ark. Little Rock L.J. Karber, Survey of Arkansas Law: Workers' Compensation, 2 U. Ark. Little Rock L.J. 294.

CASE NOTES

Cited: Holiday Inns of Am., Inc. v. Wilson, 253 Ark. 915, 489 S.W.2d 806 (1973); Roberts v. Smith Furn. & Appli-

ance Co., 263 Ark. 869, 567 S.W.2d 947 (1978).

11-5-301. Purpose.

(a) This subchapter provides for the minimum precautions to be taken during any excavation, demolition, transportation of equipment, construction, repair, or operation in the proximity of energized overhead electrical lines.

(b)(1) The purposes of this subchapter are to provide for the protection of persons engaged in work of any nature in the vicinity of energized overhead electrical lines, to define the conditions under which work may be carried on safely, the procedures and means by which these conditions may be created, to provide penalties, and to provide remedies to those affected by violations of this subchapter.

(2) The provisions of this subchapter shall not apply to the direct employees of the State Highway Commission or the Arkansas State Highway and Transportation Department.

History. Acts 1963, No. 148, § 1; A.S.A. 1947, § 81-1401; Acts 1989, No. 752, § 1.

CASE NOTES

Cited: Franklin Collier Farms v. Power Co., 2011 Ark. 32, — S.W.3d — Chapple, 18 Ark. App. 200, 712 S.W.2d 334 (2011).
(1986); Intents, Inc. v. Southwestern Elec.

11-5-302. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Authorized person" means:

(A) Employees of an electrical utility company with respect to the electrical system of such a company, and the employees of a transportation system with respect to the electrical circuits of the system;

(B) Employees of communication utilities, state, county, or municipal agencies having authorized circuit construction on the poles or structures of an electric utility company, transportation system, or communication system;

(C) Employees of an industrial plant with respect to the electrical system of the plant;

(D) Employees of a municipality with respect to the electrical system of the municipality; and

(E) Employees of any electrical or communications contractor with respect to work under his or her supervision, having authorized construction work on the poles or structures of an electrical utility company, transportation system, or communication system;

(2) "De-energizing" means removing the voltage from electrical conductors and grounding;

(3) "Energized overhead electrical lines" means electrical lines which are energized at a potential of four hundred forty (440) volts or more, as measured between the conductor and the ground;

(4) "Mechanical barrier" means a temporary device for separating and preventing contact between material or equipment and energized overhead electrical lines such as:

(A) Insulating barriers; or

(B) Nonconductive enclosures around conductors;

(5) "Shall" is to be understood as mandatory;

(6) "Should" is to be understood as advisory;

(7) "Temporary relocation" means:

(A) Removing electrical conductors from poles;

(B) Elevating electrical conductors; or

(C) Rerouting electrical conductors;

(8) "Warning sign" means a weather-resistant sign of not less than five inches by seven inches (5" x 7") with a yellow background and black lettering reading as follows:

"WARNING — Unlawful to operate this equipment within ten feet (10') of energized overhead electrical lines."

History. Acts 1963, No. 148, § 2; 1979, No. 716, § 1; A.S.A. 1947, § 81-1402; Acts 1989, No. 752, § 2.

CASE NOTES

Cited: Franklin Collier Farms v. Chapple, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

11-5-303. Application of National Electrical Safety Code.

The provisions of the National Electrical Safety Code, as adopted by the State of Arkansas, shall apply in the interpretation of this subchapter.

History. Acts 1963, No. 148, § 4; A.S.A. 1947, § 81-1404; Acts 1989, No. 752, § 3.

11-5-304. Exceptions.

This subchapter does not apply to the construction, reconstruction, operation, and maintenance of energized overhead electrical lines and their supporting structures and associated equipment by an authorized electrical person nor to any authorized person engaged in the construction, reconstruction, operation, and maintenance of overhead electrical or communications circuits or conductors and their supporting and associated equipment of rail transportation systems, electrical transmission or distribution systems, or communications systems.

History. Acts 1963, No. 148, § 3; A.S.A. 1947, § 81-1403; Acts 1989, No. 752, § 4.

CASE NOTES

Cited: Franklin Collier Farms v. Chapple, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

11-5-305. Penalty for violations.

(a) Every person, firm, corporation, or association who violates any of the provisions of this subchapter shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and in addition thereof, if the violation results in physical or electrical contact with any energized overhead electrical line or conductor, and the violation is a proximate cause of any damage or injury to person or property, then the person, firm, corporation, or association violating the provisions of this subchapter shall be liable to the owner or operator of the electrical line or conductor for all damage to the facilities and for all loss, cost, and damages, including attorney's fees, incurred by way of property damage or personal injury by the owner or operator as a result of any such accidental contact.

(b) The provisions of this section shall not apply to public utilities engaged in business in the State of Arkansas, nor their direct employees, nor to persons owning, leasing, or otherwise possessing a legal

interest in the land upon which the energized overhead electrical line is located.

History. Acts 1963, No. 148, § 10; A.S.A. 1947, § 81-1410; Acts 1989, No. 752, § 10.

CASE NOTES

Priority Over Worker's Compensation Act.

This section of the Work Near High Voltage Lines Act (Act) had priority over the exclusive remedy provisions of Worker's Compensation Act. Thus, an employer had to indemnify a utility for attorney's fees it incurred in defending personal in-

jury actions as a result of the employer's failure to comply with the notification provisions of the Act. *Intents, Inc. v. Southwestern Elec. Power Co.*, 2011 Ark. 32, — S.W.3d — (2011).

Cited: *Roberts v. Smith Furn. & Appliance Co.*, 263 Ark. 869, 567 S.W.2d 947 (1978).

11-5-306. Use of alternative devices or methods.

Where specific devices or methods are mentioned in this subchapter, other devices or methods which will secure equally good results may be used, subject to the approval of the enforcing authority.

History. Acts 1963, No. 148, § 3; A.S.A. 1947, § 81-1403; Acts 1989, No. 752, § 5.

CASE NOTES

Cited: *Franklin Collier Farms v. Chapple*, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

11-5-307. Notification.

(a)(1) When any person, firm, or corporation desires to temporarily carry on any function, activity, work, or operation in closer proximity to any energized overhead electrical line or conductor than permitted by this subchapter, the person or persons responsible for the work to be done shall promptly notify the Director of the Department of Labor and the operator or owner of the electrical lines in writing of the work to be performed and make appropriate arrangements with the operator of the electrical lines before proceeding with any work which would impair the clearances required by this subchapter.

(2) The written notice shall be given to the owner or operator of the electrical lines by submitting notification to the manager of the nearest local office of the operator or owner of the electrical lines with a copy forwarded to the director.

(b)(1) The work shall be performed only after satisfactory mutual arrangements have been negotiated between the owner and operator of the electrical lines and the person or persons responsible for the work to be done.

(2) The owner or operator of the electrical lines shall commence work on the mutual arrangements as provided herein within three (3) working days of the mutual arrangement. Once initiated, the clearance work will continue without unreasonable interruption to complete.

History. Acts 1963, No. 148, § 9; 1979, No. 716, § 4; A.S.A. 1947, § 81-1409; Acts 1989, No. 752, § 8.

CASE NOTES

Failure to Provide Notice.

Summary judgment was properly awarded to electric company in plaintiff's personal injury action, which was brought after he was injured when an energized electrical line arced into his back, as it was clear that neither plaintiff nor his employer gave the requisite statutory notice to the electric company that work would be conducted near its power lines. *Thornton v. Ark. Valley Elec. Coop. Corp.*, 95 Ark. App. 151, 234 S.W.3d 915 (2006).

Notification under this section is not a prerequisite to a utility's legal duty of care. *Koch v. Southwestern Elec. Power Co.*, 544 F.3d 906 (8th Cir. 2008).

Where two men setting up a tent at a festival were electrocuted when an aluminum tent pole from a tent they were carrying came in contact with a power line, the lack of any formal notification regarding the festival sent to the utility company pursuant to this section did not, in itself, negate any common law duty that the company had towards the decedents. *Koch v. Southwestern Elec. Power Co.*, 544 F.3d 906 (8th Cir. 2008).

Cited: *Clark v. Transcon. Ins. Co.*, 359 Ark. 340, 197 S.W.3d 449 (2004); *Intents, Inc. v. Southwestern Elec. Power Co.*, 2011 Ark. 32, — S.W.3d — (2011).

11-5-308. Prohibited acts.

(a) No person, firm, corporation, or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation, or association, shall perform, require, or permit any agent or employee to perform any function or activity upon any land, building, structure, highway, or other premises when it could be reasonably expected, during the performance of the activity, for any person or employee engaged in performing work connected with or related to the function or activity to move or to be placed in a position within ten feet (10') of any energized overhead electrical line or conductor, or when it could be reasonably expected for any part of any tool, equipment, machinery, or material to be used by any such person or employee to be brought within ten feet (10') of any such overhead line or conductor through any lateral, vertical, or swinging motion during the performance of that function or activity, unless and until danger from accidental contact with said overhead lines has been effectively guarded against in the manner hereinafter prescribed.

(b) No person, firm, corporation, or association shall, individually or through an agent or employee, and no person as an agent or employee of any person, firm, corporation, or association, shall store, operate, erect, maintain, move or transport any tools, machinery, equipment, supplies, materials, or other apparatus, house, other building, or any part thereof, within ten feet (10') of any energized overhead electrical line unless and until danger from accidental contact with the overhead

line has been effectively guarded against in the manner hereinafter prescribed.

(c)(1) The commission of any act enumerated in subsection (a) or (b) of this section shall be prohibited except where energized overhead electrical lines have been effectively guarded against danger from accidental contact, by either:

(A) The erection of mechanical or insulating barriers to prevent physical contact with energized overhead electrical lines; or

(B) De-energizing the overhead electrical lines and grounding.

(2) Only in the case of either of such exceptions may the ten foot (10') clearance required be reduced. The required ten foot (10') clearance shall not be provided by movement of the lines through strains impressed by attachments or otherwise, upon the structures supporting the overhead lines, nor upon any equipment, fixtures, or attachments thereon.

(3) If subdivisions (c)(1)(A) and (B) of this section are not practicable in the opinion of the owner or operator of the electrical lines and it is necessary to temporarily relocate the overhead electrical lines, mutually agreeable arrangements shall be made with the owner or operator of the overhead electrical lines for the temporary relocation.

(4) In addition to the requirements of subdivisions (c)(1)(A) and (B) of this section, there shall be installed an insulated cage-type guard or protective device, approved by the Director of the Department of Labor, about the boom or arm of all equipment, except backhoes or dippers. Where the equipment includes a lifting hook device also approved by the director, all lifting lines shall be equipped with insulator links on the lift hook connection.

(5) All mechanical barriers and all insulated protective devices and links referred to in this section shall be of such character and construction as are suited to the work operations and adequate for the electrical conditions to be encountered.

(6) All mechanical barriers and all insulated protective devices and links shall be maintained in such functioning condition as to meet periodic inspection.

History. Acts 1963, No. 148, §§ 5, 6; 1979, No. 716, § 2; A.S.A. 1947, §§ 81-1405, 81-1406; Acts 1989, No. 752, §§ 6, 7.

CASE NOTES

Evidence.

There was substantial evidence in workers, compensation case to warrant award of penalty under § 11-9-503 for employer's violation of this section. *Holiday Inns of Am., Inc. v. Wilson*, 253 Ark. 915, 489 S.W.2d 806 (1973).

Where the employer provided warning signs, but it made no other attempts to comply with this section, and in light of

the location of the auger at the time of the accident, it was clearly and foreseeably possible that the auger could come within 10 feet of the high-voltage lines, the Worker's Compensation Commission's decision that the employer failed to comply with this section was supported by substantial evidence. *Franklin Collier Farms v. Chapple*, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

Cited: *Heslep v. Forrest & Cotton, Inc.*, 247 Ark. 1066, 449 S.W.2d 181 (1970); *Moody Equip. & Supply Co. v. Union Nat'l Bank*, 273 Ark. 319, 619 S.W.2d 637 (1981).
Roberts v. Smith Furn. & Appliance Co., 263 Ark. 869, 567 S.W.2d 947 (1978);

11-5-309. Warning signs.

(a) The owner, agent, or employer responsible for the operation of equipment shall post and maintain in plain view of the operator on each crane, derrick, power shovel, drilling rig, hay loader, hay stacker, pile driver, or similar apparatus, any part of which is capable of vertical, lateral, or swinging motion, an approved weather-resistant warning sign legible at twelve feet (12') reading:

"WARNING — Unlawful to operate this equipment within ten feet (10') of energized overhead electrical lines."

(b) Warning signs shall be placed:

(1) Within the equipment readily visible to operators of cranes and other equipment when at the controls of such equipment; and

(2) On the outside of equipment in such number and locations as to be readily visible to mechanics or other persons engaged in the work operations.

(c) Warning signs should not be less than five inches (5") in height and not less than seven inches (7") in width.

History. Acts 1963, No. 148, §§ 7, 8; 1979, No. 716, § 3; A.S.A. 1947, §§ 81-1407, 81-1408; Acts 1989, No. 752, § 9.

CASE NOTES

Evidence.

The statutory minimum requirement for warning signs precludes admissibility of evidence of custom and usage. *Smith v. Aaron*, 256 Ark. 414, 508 S.W.2d 320 (1974).

Cited: *Franklin Collier Farms v. Chapple*, 18 Ark. App. 200, 712 S.W.2d 334 (1986).

SUBCHAPTER 4 — GENETIC INFORMATION IN THE WORKPLACE

SECTION.

11-5-401. Title.

11-5-402. Definitions.

11-5-403. Prohibition of employer's use of genetic test or information.

SECTION.

11-5-404. Penalty for violation of § 11-5-403.

11-5-405. Exclusion for insurers.

Cross References. Genetic Research Studies Nondisclosure Act, §§ 20-35-101 et seq.

11-5-401. Title.

This subchapter shall be known and may be cited as the “Genetic Information in the Workplace Act”.

History. Acts 2001, No. 1407, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Labor Law, 24 U. Ark. Little Rock Legislation, 2001 Arkansas General As- L. Rev. 493.

11-5-402. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) “DNA” means deoxyribonucleic acid;
- (2) “Employer” means employer as the term is defined in Section 3(d) of the Fair Labor Standards Act of 1938;
- (3)(A) “Genetic information” means information derived from the results of a genetic test.
 - (B) “Genetic information” shall not include:
 - (i) Family history;
 - (ii) Results of a routine physical examination or test;
 - (iii) Results of a chemical, blood, or urine analysis;
 - (iv) Results of a test to determine drug use;
 - (v) Results of a test for the presence of the human immunodeficiency virus; or
 - (vi) Results of any other test commonly accepted in clinical practice at the time it is ordered by the insurer;
- (4)(A) “Genetic test” means a laboratory test of the DNA, RNA, or chromosomes of an individual for the purpose of identifying the presence or absence of inherited alterations in the DNA, RNA, or chromosomes that cause a predisposition for a clinically recognized disease or disorder.
 - (B) “Genetic test” shall not include:
 - (i) A routine physical examination or a routine test performed as a part of a physical examination;
 - (ii) A chemical, blood, or urine analysis;
 - (iii) A test to determine drug use;
 - (iv) A test for the presence of the human immunodeficiency virus;or
 - (v) Any other test commonly accepted in clinical practice at the time it is ordered by the insurer; and
- (5) “RNA” means ribonucleic acid.

History. Acts 2001, No. 1407, § 1.

U.S. Code. The Fair Labor Standards

Act of 1938, referred to in this section, is codified as 29 U.S.C. § 203(d).

11-5-403. Prohibition of employer's use of genetic test or information.

(a) An employer shall not seek to obtain or use a genetic test or genetic information of the employee or the prospective employee for the purposes of distinguishing between or discriminating against or restricting any right or benefit otherwise due or available to an employee or prospective employee.

(b) An employer shall not require a genetic test of or require genetic information from the employee or prospective employee for the purposes of distinguishing between or discriminating against or restricting any right or benefit otherwise due or available to an employee or prospective employee.

History. Acts 2001, No. 1407, § 1.

11-5-404. Penalty for violation of § 11-5-403.

Any employer who violates the prohibitions of § 11-5-403 shall be guilty of a misdemeanor and may be punished by a fine of not more than twenty-five thousand dollars (\$25,000) or by imprisonment in the county jail for not more than one (1) year, or by both fine and imprisonment.

History. Acts 2001, No. 1407, § 1.

11-5-405. Exclusion for insurers.

Notwithstanding any language in this subchapter to the contrary, this subchapter shall not apply to an insurer or to an individual or third party dealing with an insurer in the ordinary course of underwriting, conducting, or administering the business of life, disability income, or long-term care insurance, including, but not limited to, actions taken by an insurer or an individual or third party dealing with an insurer in connection with life, disability income, or long-term care insurance made available by an employer to its employees.

History. Acts 2001, No. 1407, § 1.

CHAPTER 6

CHILD LABOR

SECTION.

- 11-6-101. Industrial education not prohibited.
- 11-6-102. Certain children excepted from chapter.
- 11-6-103. Penalty — Disposition of fines.
- 11-6-104. Children under age 14 years prohibited from working — Exception.

SECTION.

- 11-6-105. Children under age 16 years — Restrictions on employment generally.
- 11-6-106. Children under age 16 years — Prohibitions against certain kinds and places of work — Exceptions.
- 11-6-107. Children under age 16 years —

SECTION.

- Prohibitions against certain kinds and places of work.
- 11-6-108. Children under age 16 years — Hours of employment.
- 11-6-109. Children under age 16 years — Employment certificate required.
- 11-6-110. Children under age 18 years — Hours of employment.
- 11-6-111. Inspection of workplace — Prosecution of violators.

SECTION.

- 11-6-112. Newspaper delivery work permitted.
- 11-6-113. Professional baseball work as batboy or batgirl permitted.
- 11-6-114. Seasonal agricultural labor permitted.
- 11-6-115. Domestic labor and child care in connection with church functions permitted.
- 11-6-116. Sports officiating permitted in certain sports.

Cross References. Exemption, children employed in entertainment industry, § 11-12-101 et seq.

Effective Dates. Init. Meas. 1914, No. 2, § 15: effective on passage. Declared effective by Governor, Oct. 13, 1914.

Acts 1967, No. 641, § 4: approved Apr. 6, 1967. Emergency clause provided: "It is found and declared by the General Assembly that the providing for children of an opportunity to develop a business interest and to promote in them a spirit of industry is essential to the public health, safety and welfare; that the provisions of this Act are immediately needed for the accomplishment of this purpose and that only by giving immediate effect to this Act can these purposes be realized to the fullest possible extent. It is, therefore, declared that an emergency exists, and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage."

Acts 1973, No. 449, § 3: Mar. 23, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an increase in juvenile delinquency in the State of Arkansas, that the lack of suitable employment opportunities for minors contributes to the cause of delinquency, and that this Act is immediately necessary in order to assist in alleviating juvenile delinquency and providing additional employment opportunities to the youth of the State. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1975, No. 11, § 3: Jan. 30, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that there are certain restrictions placed by law upon the employment of persons between the ages of sixteen and eighteen years; that many persons between the ages of sixteen and eighteen years have graduated from high school, vocational, or technical schools, and are employable for more hours than the law presently permits; that there are ample safeguards for employees between the ages of sixteen and eighteen years in the Fair Labor Standards Act, 29 U.S.C. 201 et seq., against oppressive child labor; that this Act is immediately necessary to provide additional employment opportunities to the youth of this State. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 1991, No. 1170, § 5: Apr. 10, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that the Child Labor Laws of this state prohibit children from working as "batboys" or "batgirls" at baseball games; that children need this opportunity to develop business interest related to professional baseball and to promote in them a spirit of thrift and industry by encouraging their involvement in situations where the parent, child and community will be benefitted; and that this act provides the opportunity for children to serve as "batboys" or "batgirls". Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate

preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 1120, § 5: Apr. 13, 1993. Emergency clause provided: "It is hereby found and determined by the General Assembly that persons engaged in the agricultural industry are suffering from a hardship because there are not enough employees available to adequately harvest crops; that it would advantageous to the State of Arkansas to allow persons engaged in the agriculture industry to hire persons between the ages of twelve (12) and sixteen (16) years outside of school hours; that presently there are restrictions placed by law upon the employment of persons between the ages of twelve (12) and sixteen (16) years; that there are ample safeguards for employees between the ages of twelve (12) and sixteen (16) in the Fair Labor Standards Act, 29 U.S.C. 201, et seq., against oppressive child labor; that the provisions of this act are consistent with the provisions of the Fair Labor Standards Act; that this act is

immediately necessary to protect the livelihood of Arkansas farmers and to provide the youth of this State with an opportunity for summer employment. Therefore, and emergency is declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in effect from the date of its passage and approval."

Acts 2001, No. 577, § 8: July 1, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that this act must go into effect on the date the biennial appropriation for the Department of Labor goes into effect, which is July 1, 2001, and that the delay in the effective date of this act could work irreparable harm upon the proper administration and provisions of essential government programs. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

RESEARCH REFERENCES

ALR. Employer's liability for injury to babysitter in home or similar premises. 29 A.L.R.4th 304.

Am. Jur. 48A Am. Jur. 2d, Labor, § 2653 et seq.

C.J.S. 43 C.J.S., Infants, § 99.
51 C.J.S., Labor, § 4.

CASE NOTES

ANALYSIS

Constitutionality.
Newspaper Carriers.
Workers' Compensation Law.

Constitutionality.

This chapter is a valid exercise of the state's police power and is not invalid as abridging the freedom of children to contract. *Terry Dairy Co. v. Nalley*, 146 Ark. 448, 225 S.W. 887 (1920).

Newspaper Carriers.

A contract with a boy thirteen years old to deliver newspapers, solicit insurance, and canvass for new customers at night

violated the letter, the spirit, and the clear purposes of this chapter. *Clark v. Arkansas Democrat Co.*, 242 Ark. 133, 413 S.W.2d 629 (1967).

Workers' Compensation Law.

The Workers' Compensation Law, chapter 9 of this title, affords the exclusive remedy allowed a minor employee against the employer for compensation for injuries sustained by the minor in the course of employment, notwithstanding the minor was employed in violation of this chapter. *Cummings v. J.J. Newberry Co.*, 211 Ark. 854, 203 S.W.2d 187 (1947).

Cited: *Carter v. Montgomery*, 226 Ark. 989, 296 S.W.2d 442 (1956).

11-6-101. Industrial education not prohibited.

Nothing in this chapter shall prevent children of any age from receiving industrial education furnished by the United States, this state, or any city or town in the state and duly approved by the State Board of Education or by any other duly constituted public authority.

History. Init. Meas. 1914, No. 1, § 12, Pope's Dig., § 9080; A.S.A. 1947, § 81-Acts 1915, p. 1505; C. & M. Dig., § 7098; 713.

11-6-102. Certain children excepted from chapter.

No boy or girl between the ages of sixteen (16) years and eighteen (18) years shall be subject to the provisions of this chapter if:

(1) The boy or girl is a graduate of any high school, vocational school, or technical school;

(2) The boy or girl is married or is a parent.

History. Init. Meas. 1914, No. 1, § 6, § 1; 1977, No. 326, § 1; A.S.A. 1947, § 81-Acts 1915, p. 1505; C. & M. Dig., § 7091; 707.
Pope's Dig., § 9073; Acts 1975, No. 11,

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey of Arkansas Law, Labor Law, 1 U. Ark. Little Rock L.J. 217.

CASE NOTES

Cited: Griffin v. George's, Inc., 267 Ark. 91, 589 S.W.2d 24 (1979).

11-6-103. Penalty — Disposition of fines.

(a)(1) Any person, firm, corporation, partnership, association, parent, guardian, or custodian who employs or permits or suffers any child to be employed or to work in violation of this subchapter or §§ 11-12-101 — 11-12-105, or any regulations issued thereunder, shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000) for each violation.

(2) Each day the violation continues shall with respect to each child so employed or permitted work constitute a separate offense.

(b) The Director of the Department of Labor shall determine the amount of such penalty and shall consider the appropriateness of such penalty to the size of the business and the gravity of the violation.

(c) The determination by the director shall be final unless within fifteen (15) days after receipt of notice thereof by certified mail, the person, firm, corporation, partnership, or association charged with the violation notifies the director in writing that he or she contests the proposed penalty. In the event that penalty is contested, a final

determination shall be made pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) The amount of penalty when finally determined may be recovered in a civil action brought by the director in a court of competent jurisdiction, without paying costs or giving bond for costs.

(e) Sums collected under this section shall be paid into the Department of Labor Special Fund.

(f) Assessment of a civil penalty by the director shall be made no later than two (2) years from the date of the occurrence of the violation.

(g) In addition to the civil penalty provided by this section, the director is authorized to petition any court of competent jurisdiction, without paying costs or giving bond for costs, to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provisions of this subchapter or §§ 11-12-101 — 11-12-105, or any regulation issued thereunder.

History. Init. Meas. 1914, No. 1, § 13, 714; Acts 1991, No. 509, § 1; 2001, No. Acts 1915, p. 1505; C. & M. Dig., § 7099; 577, § 7.
Pope's Dig., § 9081; A.S.A. 1947, § 81-

11-6-104. Children under age 14 years prohibited from working — Exception.

No child under the age of fourteen (14) years shall be employed or permitted to work in any remunerative occupation in this state, except that during school vacation, children under fourteen (14) years may be employed by their parents or guardians in occupations owned or controlled by them.

History. Init. Meas. 1914, No. 1, § 1, 714; Acts 1915, p. 1505; C & M. Dig., § 7085; Pope's Dig., § 9067; A.S.A. 1947, § 81-701.

Publisher's Notes. This section was held to supersede § 18-42-102 as to employment contracts with minors under fourteen years of age in *Clark v. Arkansas Democrat Co.*, 242 Ark. 133, 413 S.W.2d 629 (1967).

Cross References. Contracts of minors over 15 years of age, § 18-42-102.

11-6-105. Children under age 16 years — Restrictions on employment generally.

No child under sixteen (16) years shall be employed or permitted to work in any occupation dangerous to the life and limb, or injurious to the health and morals of the child, or in any saloon, resort, or bar where intoxicating liquors of any kind are sold or dispensed.

History. Init. Meas. 1914, No. 1, § 2, 714; Acts 1915, p. 1505; C. & M. Dig., § 7086; Pope's Dig., § 9068; Acts 1977, No. 321, § 1; A.S.A. 1947, § 81-702.

Cross References. Alcoholic beverages, § 3-1-101 et seq.

RESEARCH REFERENCES

Ark. L. Rev. Torts-Negligence: Effect of Violation of Safety Statute on the Admissibility of Evidence of Custom and Industry Standards, 28 Ark. L. Rev. 397.

CASE NOTES

ANALYSIS

Purpose.
Instruction.
Negligence Per Se.
Third Persons.

Purpose.

It was the purpose of this section to prevent children from having access to complex combination of mechanical parts at a time and in circumstances when harm might conceivably result, and not to prohibit a person under 16 years of age from cleaning an engine made harmless by disuse and without any moving parts. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

Instruction.

In action for injuries received by 15-year-old child burned as a result of using gasoline to clean engine, instruction that mere use of gasoline was not in itself

negligence, unless it was shown that it was used under such circumstances as would cause a reasonably prudent person to anticipate that it would be ignited, was correct. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

Negligence Per Se.

Employment in violation of law is negligence per se and renders employer liable for an injury received by a child while thus employed. *Cox Cash Stores, Inc. v. Allen*, 167 Ark. 364, 268 S.W. 361 (1925).

Third Persons.

Violation of this section could not be considered as evidence of negligence where third party was injured by child operating machinery, since this section does not prescribe standards of conduct for child employees toward third persons which absolve a manufacturer from liability. *Forrest City Mach. Works, Inc. v. Aderhold*, 273 Ark. 33, 616 S.W.2d 720 (1981).

11-6-106. Children under age 16 years — Prohibitions against certain kinds and places of work — Exceptions.

(a)(1) No child under the age of sixteen (16) years shall be employed upon the stage of any theater or concert hall or in connection with any theatrical performance or other exhibition or show, and no child shall be employed who has not passed four (4) yearly grades in the public school or equivalent thereof.

(2) However, a child under sixteen (16) years may be employed in a theatrical production or in a saloon, resort, or bar when the child and his or her parent or guardian perform together as part of the same show and the parent or guardian remains with the child in order to supervise him or her.

(b) No child under the age of sixteen (16) years shall be employed, permitted, or suffered to work in any capacity:

(1) In, about, or in connection with any processes in which dangerous or poisonous acids or gases or other chemicals are used;

(2) In soldering;

(3) In occupations causing dust in injurious quantities;

(4) In scaffolding;

(5) In heavy work in the building trades;

(6) In any tunnel or excavation;

- (7) In any mine, coal breaker, coke oven, or quarry; or
- (8) In any pool or billiard room.

History. Init. Meas. 1914, No. 1, §§ 2, 4, Acts 1915, p. 1505; C. & M. Dig., §§ 7086, 7089; Pope's Dig., §§ 9068, 9071; Acts 1977, No. 321, § 1; A.S.A. 1947, §§ 81-702, 81-705; 1995, No. 858, § 1.

Cross References. Working in mines, ages, § 11-7-318.

RESEARCH REFERENCES

Ark. L. Rev. Torts-Negligence: Effect of Violation of Safety Statutes on the Admis-

sibility of Evidence of Custom and Industry Standards, 28 Ark. L. Rev. 397.

CASE NOTES

ANALYSIS

Purpose.
Instructions.
Negligence Per Se.
Third Persons.

Purpose.

It was the purpose of this section to prevent children from having access to complex combination of mechanical parts at a time and in circumstances when harm might conceivably result, and not to prohibit a person under 16 years of age from cleaning the base of an engine made harmless by disuse and without any moving parts. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

Instructions.

In action for injuries received by 15-year-old child burned as a result of using gasoline to clean engine, instruction that mere use of gasoline was not in itself

negligence, unless it was shown that it was used under such circumstances as it would cause a reasonably prudent person to anticipate that it would be ignited, was correct. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

Negligence Per Se.

Employment in violation of law is negligence per se and renders employer liable for an injury received by a child while thus employed. *Cox Cash Stores, Inc. v. Allen*, 167 Ark. 364, 268 S.W. 361 (1925).

Third Persons.

Violation of this section could not be considered as evidence of negligence where third party was injured by child operating machinery, since this section does not prescribe standards of conduct for child employees toward third persons which absolve a manufacturer from liability. *Forrest City Mach. Works, Inc. v. Aderhold*, 273 Ark. 33, 616 S.W.2d 720 (1981).

11-6-107. Children under age 16 years — Prohibitions against certain kinds and places of work.

(a) No child under sixteen (16) years shall be employed or permitted to work at any of the following occupations:

- (1) Adjusting any belt to any machinery;
- (2) Sewing or lacing machine belts in any workshop or factory;
- (3) Oiling, wiping, or cleaning machinery or assisting therein;
- (4) Operating or assisting in operating any of the following machines:
 - (A) Circular or band saws;
 - (B) Wood shapers;
 - (C) Wood jointers;
 - (D) Planers;

- (E) Sandpaper or wood polishing machinery;
 - (F) Wood turning or boring machinery;
 - (G) Picker machines or machines used in picking wool;
 - (H) Carding machines;
 - (I) Job or cylinder printing presses operated by power other than foot power;
 - (J) Boring or drill presses;
 - (K) Stamping machines used in metal or in paper or leather manufacturing;
 - (L) Metal or paper cutting machines;
 - (M) Corner staying machines in paper box factories;
 - (N) Steam boilers;
 - (O) Dough brakes or cracker machinery of any description;
 - (P) Wire or iron straightening or drawing machinery;
 - (Q) Rolling mill machinery;
 - (R) Washing, grinding, or mixing machinery; or
 - (S) Laundering machinery;
- (5) In proximity to any hazardous or unguarded belt, machinery, or gearing; or
- (6) Upon any railroad, whether steam, electric, or hydraulic.
- (b)(1) The Director of the Department of Labor may, from time to time after a hearing duly had, determine what other occupations are sufficiently dangerous to the life or limb or injurious to the health or morals of children under sixteen (16) years to justify their exclusion therefrom. No child under sixteen (16) years of age shall be employed or permitted to work in any occupation thus determined to be dangerous or injurious.
- (2) There shall be right of appeal from any such determination pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Init. Meas. 1914, No. 1, § 3 §§ 9069, 9070; A.S.A. 1947, §§ 81-703, (1st and 2nd par.), Acts 1915, p. 1505; C. & 81-704; Acts 1991, No. 565, § 1.
M. Dig., §§ 7087, 7088; Pope's Dig.,

CASE NOTES

ANALYSIS

Construction.
Purpose.

Construction.

Machinery as used in this chapter means a more or less complex combination of mechanical parts operating in such manner as to fascinate or confound a person of tender years. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

Purpose.

It was the purpose of this section to prevent children from having access to complex combination of mechanical parts at a time and in circumstances when harm might conceivably result, and not to prohibit a person under 16 years of age from cleaning the base of an engine made harmless by disuse and without any moving parts. *Blankenship v. W.E. Cox & Sons*, 204 Ark. 427, 162 S.W.2d 918 (1942).

11-6-108. Children under age 16 years — Hours of employment.

No child under the age of sixteen (16) years shall be employed, permitted, or suffered to work for more than six (6) days in any week, nor more than forty-eight (48) hours in any week, nor more than eight (8) hours in any day or before 6:00 a.m. or after 7:00 p.m., except that on nights preceding nonschool days, children under the age of sixteen (16) years may be employed until 9:00 p.m.

History. Init. Meas. 1914, No. 1, § 5, Pope's Dig., § 9072; Acts 1973, No. 449, Acts 1915, p. 1505; C. & M. Dig., § 7090; § 1; A.S.A. 1947, § 81-706.

RESEARCH REFERENCES

Ark. L. Rev. Legal Control of Business in Arkansas, 5 Ark. L. Rev. 137.

CASE NOTES**Negligence.**

In action for damages for injury to minor, failure of employer to secure certifi-

cate was evidence of negligence to be considered by the jury. Cox Cash Stores, Inc. v. Allen, 167 Ark. 364, 268 S.W. 361 (1925).

11-6-109. Children under age 16 years — Employment certificate required.

(a) No person, firm, or corporation shall employ or permit any child under sixteen (16) years to work in or in connection with any establishment or occupation unless the person, firm, or corporation employing the child procures and keeps on file, accessible to the Department of Labor and the Department of Education, or local school officials, an employment certificate as provided in this section.

(b)(1) The employment certificate shall be issued only by the Director of the Department of Labor.

(2) Application for an employment certificate shall be made on a form approved by the director and shall require submission of the following:

- (A) Proof of age;
- (B) A description of the work and work schedule; and
- (C) Written consent of the parent or guardian.

History. Init. Meas. 1914, No. 1, §§ 7-10, Acts 1915, p. 1505; Acts 1917, No. 391, Pope's Dig., §§ 9074-9077; A.S.A. 1947, §§ 81-708—81-711; Acts 1991, No. 565, § 1, p. 1849; C. & M. Dig., §§ 7092-7095; § 2.

11-6-110. Children under age 18 years — Hours of employment.

No boy or girl under the age of eighteen (18) years shall be employed, permitted, or suffered to work in any occupation:

- (1) More than six (6) days in any week;
- (2) More than fifty-four (54) hours in any week;
- (3) More than ten (10) consecutive hours in any one (1) day;
- (4) More than ten (10) hours in a twenty-four-hour period; or

(5) Before 6:00 a.m. or after 11:00 p.m., except that the limitations of 6:00 a.m. and 11:00 p.m. shall not apply to children under the age of eighteen (18) years employed on nights preceding nonschool days in occupations determined by rule of the Department of Labor to be sufficiently safe for their employment.

History. Init. Meas. 1914, No. 1, § 6, § 2; 1975, No. 11, § 1; 1977, No. 326, § 1; Acts 1915, p. 1505; C. & M. Dig., § 7091; A.S.A. 1947, § 81-707; 2005, No. 939, § 1. Pope's Dig., § 9073; Acts 1973, No. 449,

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Survey of Arkansas Law, Labor Law, 1 U. Ark. Little Rock L.J. 217.

CASE NOTES

Injury.

An injured minor employee cannot recover from the employer on account of the employer's violation of this section unless the violation was the proximate cause of

the injury. *Hogan v. Bateman Contracting Co.*, 184 Ark. 842, 43 S.W.2d 721 (1931).

Cited: *Griffin v. George's, Inc.*, 267 Ark. 91, 589 S.W.2d 24 (1979).

11-6-111. Inspection of workplace — Prosecution of violators.

(a) The Director of the Department of Labor or his or her designee shall have the right to enter any building or premises for the purpose of inspection to ascertain whether any child is employed or permitted to work in violation of the provisions of this subchapter.

(b)(1) It shall be the duty of the director to enforce and administer the provisions of this subchapter.

(2) The director is authorized to adopt rules and regulations for the enforcement and administration of this subchapter.

(3) The director may revoke an employment certificate for cause.

History. Init. Meas. 1914, No. 1, § 11, 7097; Pope's Dig., §§ 9078, 9079; A.S.A. Acts 1915, p. 1505; C. & M. Dig., §§ 7096, 1947, § 81-712; Acts 1991, No. 565, § 3.

11-6-112. Newspaper delivery work permitted.

(a) The purpose of this section is to provide children with an opportunity to develop business interests and to promote in them a spirit of thrift and industry by encouragement of their engagement in a particular situation when the child, parent, and community will be benefited and which tends to prevent juvenile delinquency.

(b)(1) A minor may be employed or may enter into contracts, upon written approval of the parent or guardian of the minor, to buy, sell, and deliver and to collect for newspapers during the school term or during vacation, if the child is attending school, as required by law, and does not engage in the employment or activity except at times when his or her presence is not required at school.

(2) The provisions of §§ 11-6-101 — 11-6-111, with respect to child labor, shall not be applicable with respect to the contract or employment as authorized in this section.

(c)(1) The provisions of this section shall be applicable only where the provision is made by the employer or newspaper company contractor to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(2)(A) The schedule of benefits under this program of insurance or indemnity shall provide at least ten thousand dollars (\$10,000) for accidental death of the minor, and the sum shall be reasonably and equitably prorated for dismemberment of the minor.

(B) The insurance or indemnity shall further provide blanket medical coverage for all hospital and medical expenses up to five thousand dollars (\$5,000) resulting from an accident.

(C) This hospital and medical expense protection shall be excess insurance coverage or indemnity over and above any other collectible insurance.

History. Acts 1967, No. 641, §§ 1, 2;
A.S.A. 1947, §§ 81-715, 81-716.

CASE NOTES

Excess Insurance.

The term "excess insurance" has been used so commonly and construed so often that it must be assumed that the legislature used it in accordance with its commonly accepted meaning limiting liability

of the insurance carrier only to loss in excess of the coverage provided by any other policy or policies. *Moody v. American Fid. Assurance Co.*, 252 Ark. 899a, 481 S.W.2d 700 (1972).

11-6-113. Professional baseball work as batboy or batgirl permitted.

(a) The purpose of this section is to provide children with an opportunity to develop business interests related to professional baseball and to promote in them a spirit of thrift and industry by encouragement of their engagement in a particular situation when the child, parent, and community will be benefited and which tends to prevent juvenile delinquency.

(b)(1) A minor may be employed or may enter into contracts, upon written approval of the parent or guardian of the minor, to serve as and perform the duties of a batboy or batgirl for a professional baseball club, during the school term, or during vacation, if the child is attending school as required by law and does not engage in the employment or activity except at times when his or her presence is not required at school.

(2) The provisions of §§ 11-6-101 — 11-6-112, with respect to child labor, shall not be applicable with respect to the contract or employment as authorized in this section.

(c) The provisions of this section shall be applicable only where the provision is made by the employer or professional baseball club to provide insurance or indemnity for injury to or death of the minor arising out of bodily injury caused by an accident when the accident hazard arises while the minor is on the business of the employer or performing the activities set out in the contract.

(d) No child shall be employed or permitted to work pursuant to the provisions of this section for more than ten (10) hours in any day or after 11:00 p.m. on nights preceding school days or after 1:00 a.m. on nights preceding nonschool days.

History. Acts 1991, No. 1170, § 1.

11-6-114. Seasonal agricultural labor permitted.

(a) As used in this section, “employed in agriculture” means employed as a seasonal agricultural laborer to pick, plant, harvest, grade, sort, or haul any crop, fruit, or vegetable by use of the employee’s hands.

(b) Except as provided in this section, the provisions of this chapter relating to child labor, shall not apply to any employee employed in agriculture outside of school hours of the school district where such employee is living while he or she is so employed, if such employee is fourteen (14) years of age or older.

(c) The provisions of §§ 11-6-108 and 11-6-110, relating to hours of employment, shall apply to any person employed under this section.

History. Acts 1993, No. 1120, § 1.

11-6-115. Domestic labor and child care in connection with church functions permitted.

(a) As used in this section, “domestic labor” means any occasional, irregular, or incidental work related to and in or around private residences, including, but not limited to babysitting, pet sitting, similar household chores, and manual yard work. This definition specifically excludes industrial homework, work for a third party such as a sitting service, and any activity determined by the Director of the Department of Labor to be hazardous pursuant to the provisions of § 11-6-107(b).

(b) Except as provided in this section, the provisions of this chapter relating to child labor, shall not apply to any child employed for the purposes of domestic labor.

(c) Except as provided in this section, the provisions of this chapter relating to child labor, shall not apply to employees of churches performing child care services where children are cared for during short periods of time while parents or persons in charge of the children are attending church services or functions.

History. Acts 1997, No. 934, § 1.

11-6-116. Sports officiating permitted in certain sports.

(a) As used in this section, “employed as a sports official” means employed as an official, referee, or umpire in organized youth football, baseball, softball, basketball, or soccer leagues.

(b) Except as provided in this section, the provisions of this chapter relating to child labor shall not apply to a minor at least eleven (11) years of age employed as a sports official for an age bracket younger than the minor’s own age if:

(1) An adult representing the state or local athletic program is on the premises at which the athletic program event is occurring; and

(2) A person responsible for the state or local athletic program possesses a written acknowledgment signed by the minor’s parent or guardian consenting to the minor’s employment as a sports official.

(c) The provisions of §§ 11-6-108 and 11-6-110, relating to hours of employment, shall apply to any minor employed under this section.

History. Acts 2005, No. 940, § 1.

CHAPTER 7**REGULATION OF MINES****SUBCHAPTER.**

1. GENERAL PROVISIONS. [RESERVED.]
2. STATE MINE INSPECTOR.
3. REGULATION OF OPERATION.
4. EMPLOYEE CERTIFICATION.

RESEARCH REFERENCES

ALR. Federal Coal Mine Health and Safety Act, liability for retaliation against at-will employee for public complaints or efforts relating to health or safety. 75 A.L.R.4th 13.

Labor union’s liability for injury or

death allegedly resulting from unsafe working conditions. 14 A.L.R.4th 1161.

Am. Jur. 53A Am. Jur. 2d, Mines, § 255 et seq.

C.J.S. 58 C.J.S., Mines, § 334 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

[Reserved]

SUBCHAPTER 2 — STATE MINE INSPECTOR**SECTION.**

- 11-7-201. Act cumulative.
- 11-7-202. Penalties.
- 11-7-203. Prosecution of violations.
- 11-7-204. Appointment, term, and qualifications.

SECTION.

- 11-7-205. Office, staff, and compensation.
- 11-7-206. State Mine Inspector — Powers and duties.
- 11-7-207. Assistant State Mine Inspector.
- 11-7-208. Inspection of mines.

SECTION.

11-7-209. Owner, agent, or operator to facilitate inspections — Failure to comply.

11-7-210. Action to enjoin unsafe working conditions.

SECTION.

11-7-211. Authority to arrest violators or clear mine — Injunctive relief for owner.

Effective Dates. Acts 1893, No. 125, § 17: effective 90 days after passage.

Acts 1917, No. 130, § 9: July 1, 1917. Emergency clause provided: "This act being necessary for the immediate protection and preservation of the public peace, health and safety, an emergency is hereby declared, and all laws and parts of laws in conflict herewith are hereby repealed, and this act shall take effect from and after July first, 1917."

Acts 1923, No. 120, § 3: July 1, 1923.

Acts 1937, No. 233, § 3: effective on passage.

Acts 1949, No. 268, § 22: effective on passage.

Acts 1983, No. 532, § 2: Mar. 18, 1983. Emergency clause provided: "It is hereby

found and determined by the General Assembly that the present law relating to qualifications for State Mine Inspector is confusing and could be interpreted to impose unreasonable and unnecessary restrictions on the position of State Mine Inspector; that this Act is designed to clarify and simplify the qualifications for State Mine Inspector and to preserve those qualifications which are necessary to assure that the State Mine Inspector is a highly qualified person, and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

11-7-201. Act cumulative.

This act shall not repeal any of the mining laws of the state, except wherein it specifically conflicts, but shall be cumulative to all mining laws in force prior to July 1, 1917.

History. Acts 1917, No. 130, § 8, p. 683; C. & M. Dig., § 7258; Pope's Dig., § 9314; A.S.A. 1947, § 52-412.

Meaning of "this act". Acts 1917, No. 130, codified as §§ 11-7-201 — 11-7-205, 11-7-208, 11-7-211.

11-7-202. Penalties.

(a)(1) Any person who shall willfully obstruct or hinder the mine inspector in the discharge of his or her duties and every owner, lessee, agent, or manager of a mine who refuses or neglects to furnish the State Mine Inspector the means necessary for making entry, inspection, examination, or inquiry under the mining laws of this state shall be deemed guilty of a misdemeanor.

(2) Upon conviction, the person shall be punished as provided in subsection (c) of this section.

(b)(1) Should the mine inspector willfully fail or refuse to perform any of the duties required under the provisions of the mining laws of this state, he or she shall be deemed guilty of a misdemeanor.

(2) Upon conviction, he or she shall be fined in a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and, upon a second conviction for such failure or refusal, shall be removed from office by the Governor and his or her successor appointed within thirty (30) days from the date of removal.

(c)(1) Any owner, agent, lessee, or other person convicted of the violation of any of the provisions of the mining laws of this state or failing in any manner to comply therewith shall be deemed guilty of a misdemeanor.

(2) Upon conviction, the person shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) except where provisions of the mining laws otherwise provide penalties.

(d) Each day any violation or failure shall continue on the part of any owner, agent, lessee, or other person shall be deemed a separate offense.

History. Acts 1917, No. 130, § 6, p. 683; C. & M. Dig., § 7256; Pope's Dig., § 9312; A.S.A. 1947, § 52-410.

11-7-203. Prosecution of violations.

It shall be and is made the duty of the prosecuting attorney in the district wherein the State Mine Inspector shall arrest or cause to be arrested any person violating the provisions of the mining laws of the state to at once take charge of and prosecute the person with reasonable diligence.

History. Acts 1917, No. 130, § 7, p. 683; C. & M. Dig., § 7257; Pope's Dig., § 9313; A.S.A. 1947, § 52-411.

11-7-204. Appointment, term, and qualifications.

(a) The Governor shall appoint a State Mine Inspector, who shall hold office for a term of two (2) years, beginning on July 1 of every odd-numbered year and until his or her successor is appointed and qualified.

(b)(1) The mine inspector shall be a citizen of good repute and temperate habits, and he or she must have had five (5) years' experience as a practical miner.

(2) While holding office, the mine inspector shall not be connected with or engaged, directly or indirectly, as owner, operator, agent, or director of any coal mine or other mining interest.

(c) The Governor alone shall have the power to remove a mine inspector for cause.

(d)(1) Before entering upon the duties of his or her office and within twenty (20) days after his or her appointment, the mine inspector shall make and execute a bond to the State of Arkansas, with one (1) or more sufficient sureties, in the sum of five thousand dollars (\$5,000), conditioned upon the faithful performance of his or her duties, which shall be approved by the Governor.

(2) When the bond is so approved, he or she shall also take the oath of office prescribed by the Arkansas Constitution.

(3)(A) In the event that the mine inspector shall fail to make and execute the bond within the time prescribed by subdivision (d)(1) of this section, his or her appointment shall be declared void.

(B) It is made the duty of the Governor to appoint and have qualified a proper person in his or her stead, as contemplated by the provisions of this section.

History. Acts 1917, No. 130, §§ 1, 2, p. 683; C. & M. Dig., §§ 7249, 7250; Acts 1923, No. 120, § 1; 1937, No. 233, § 1; Pope's Dig., §§ 9305, 9306; Acts 1983, No. 532, § 1; A.S.A. 1947, §§ 52-401, 52-402.

A.C.R.C. Notes. The operation of subsection (d) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection

may again become effective upon cessation of coverage under that program. See § 21-2-703.

Publisher's Notes. Acts 1937, No. 233, § 2 provided that the act would not be construed as repealing or modifying any section or provision of the mining laws then in effect, except where they were in conflict, but would be cumulative thereto.

Cross References. Oath of officers, Ark. Const., Art. 19, § 20.

11-7-205. Office, staff, and compensation.

(a) The State Mine Inspector shall have an office, which may be located in Fort Smith, and shall safely keep all records, papers, documents, and other property pertaining to or coming into his or her hands by virtue of his or her office and deliver them to his or her successor.

(b)(1) The mine inspector shall be allowed the salary, expenses, and office and clerical assistance as provided by law.

(2)(A) Salaries and expenses shall be paid out of the General Revenue Fund Account of the State Apportionment Fund upon vouchers issued by the mine inspector, pursuant to appropriations duly made.

(B) The Auditor of State shall issue the warrants on the voucher, and the Treasurer of State shall pay the same.

(c) The mine inspector, in addition to his or her salary and other expenses, shall be allowed one (1) stenographer, who shall act as clerk for the mine inspector and who shall receive a salary to be paid out of the State Treasury, as other salaries are paid.

(d)(1) He or she shall also be allowed for office expenses, in keeping and maintaining his or her office, a sum not to exceed the sum of four hundred fifty dollars (\$450) per annum, to be paid out of the State Treasury, as other expenses of his or her office are paid.

(2) He or she shall also be allowed all necessary postage, stationery, and other expenses of a similar character necessary for the transaction of the business of the office.

(e) In addition to his or her salary and other expenses provided for in this section, he or she shall be allowed necessary traveling expenses while in the performance of the duties of the office, which shall not exceed the sum of one thousand two hundred dollars (\$1,200) per annum.

(f) The salary and expenses shall be paid as in the case of other state officers.

History. Acts 1917, No. 130, §§ 1, 3, p. 683; C. & M. Dig., §§ 7249, 7251; Acts 1923, No. 120, §§ 1, 2; 1937, No. 233, § 1; Pope's Dig., §§ 9305, 9307; Acts 1943, No. 413, § 2; 1983, No. 532, § 1; A.S.A. 1947, §§ 52-401, 52-403, 52-404; Acts 2003, No. 461, § 1.

Publisher's Notes. As to cumulative effect of Acts 1937, No. 233, see Publisher's Notes to § 11-7-204.

11-7-206. State Mine Inspector — Powers and duties.

(a) In addition to the duties imposed upon him or her by law, the State Mine Inspector shall:

(1) Recommend to the various operators of coal mines throughout the state all safety regulations that he or she shall deem advisable; and

(2) Investigate the necessity and feasibility of purchasing and maintaining safety, first aid, rescue, or recovery equipment that he or she shall find feasible and necessary.

(b)(1) If he or she shall find the purchase and maintenance of the above-described equipment feasible and necessary, he or she is authorized to purchase and maintain the equipment after the legislative appropriation of necessary funds from the General Revenue Fund Account of the State Apportionment Fund, as directed by the appropriation, and the expenses thereof shall be paid in the same manner as the items provided for in § 11-7-205(b) are directed to be paid.

(2) All equipment as above described must be such that it will be adaptable for use in and will be available for use in any and all coal mines in the State of Arkansas.

(c) In his or her annual report, the mine inspector shall:

(1) Enumerate all recommendations that he or she has made for safety measures and the result thereof; and

(2) Recommend to each regular session of the General Assembly the measures as he or she deems necessary for the promotion of safety in coal mines.

(d) He or she shall also request appropriations of all funds necessary to accomplish the purposes of this section and § 11-7-205.

History. Acts 1943, No. 413, § 3; A.S.A. 1947, § 52-406; Acts 2009, No. 962, § 28; 2011, No. 980, § 2.

Publisher's Notes. Act 1939, No. 101, § 1, provided that all statutes in force prior to February 17, 1939, which regulated coal mines or fixed the duties and jurisdiction of the state mine inspector

should apply to all coal mines and their operators, irrespective of the number of persons employed in the mine.

Amendments. The 2011 amendment subdivided part of former (c) as (c)(1) and (2); and deleted "in the report, he or she shall" at the beginning of (c)(2).

11-7-207. Assistant State Mine Inspector.

(a) There is created the office of Assistant State Mine Inspector.

(b) His or her term of office shall be for a period of two (2) years, to run coextensively with the term of the State Mine Inspector and until his or her successor has been appointed and qualified.

(c) He or she shall be appointed by the Governor and work under the direction of the State Mine Inspector.

(d) He or she may be removed by the Governor for neglect of duty or for any other reasonable cause.

(e) He or she shall have been a resident of the State of Arkansas for the number of years and possess the same qualifications as are required of the State Mine Inspector.

(f)(1) Before entering upon the discharge of his or her duties as Assistant State Mine Inspector, he or she shall take and subscribe to the oath of office prescribed by law for the State Mine Inspector and shall execute a bond to the State of Arkansas, with approved security, in the sum of five thousand dollars (\$5,000), conditioned upon the faithful performance of his or her duties as such official.

(2) The bond shall be approved as in the case of the State Mine Inspector and, when so approved, shall be filed in the office of the Secretary of State.

History. Acts 1949, No. 268, § 20; A.S.A. 1947, § 52-414.

A.C.R.C. Notes. The operation of the bond provisions of subsection (f) was suspended by adoption of a self-insured fidelity bond program for public officers, offi-

cials, and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

11-7-208. Inspection of mines.

(a) The State Mine Inspector shall devote his or her entire time to the duties of the office.

(b)(1) It shall be the duty of the mine inspector to examine all mines as often as necessary and not less often than once every three (3) months.

(2) The employees of any mine, as contemplated by the mining laws of this state, shall have authority to call the mine inspector at any time in cases of emergency for the enforcement of the mining laws of this state.

(c) Inspections shall be made, and the mine inspector shall keep a record of inspections, which shall be included in his annual report to the Governor, of:

(1) The works and machinery used or operated by any mine;

(2) The state and condition of the mines as to ventilation, circulation, and condition of the air, drainage, and the number of accidents, injuries, or deaths occurring in or about the mine, the number of persons employed, and the extent to which the laws relating to mines and mining are observed; and

(3) The progress made in improvements for the safety and health sought to be obtained by the provisions of the mining laws of this state, together with all other such facts and information of public interest

concerning the conditions of mine development and progress in this state as may be deemed useful and proper.

(d)(1) Should the mine inspector find any violations of the mining laws of this state by any owner, lessee, or agent in charge of any mine, notice shall immediately be given to the owner, lessee, or agent in charge of the mine of the neglect or violation thereof, and, unless it is rectified within a reasonable time, the mine inspector shall institute a prosecution under the laws of the state.

(2) If the mine inspector finds any matter, thing, or practice in or connected with a mine to be dangerous or defective, which makes it unsafe for persons employed therein, notice in writing to the owner, lessee, or agent of the dangerous or unsafe condition shall be given, and the condition shall be remedied by the owner, lessee, or agent without unnecessary delay.

(e)(1) For the purpose of making the inspection and examination as contemplated by this section, the mine inspector shall have the right to enter any mine at any reasonable time, by day or night, but in such manner as shall not necessarily obstruct the workings of the mine.

(2) The owner, lessee, or agent is required to furnish the means necessary for the entry and inspection.

(3) The inspection and examination, as contemplated by this section, shall extend to all coal mines where the mines are operated by shaft, slope, or drift.

History. Acts 1917, No. 130, § 4, p. 683; C. & M. Dig., § 7252; Pope's Dig., § 9308; A.S.A. 1947, § 52-405.

11-7-209. Owner, agent, or operator to facilitate inspections — Failure to comply.

(a) The owner, agent, or operator of a mine is required to furnish all necessary facilities for entering and making the examinations and inspection, and, if the owner, agent, or operator refuses to permit the inspection or to furnish the necessary facilities for entering and making the examinations and inspection, the inspector shall file his or her affidavit, setting forth the refusal, before the judge of the circuit court in the county in which the mine is located.

(b)(1) The judge of the court is granted the power to issue an order commanding the owner, agent, or operator to appear before the judge in chambers or before the circuit court to show cause why he or she refuses to permit the inspection or furnish the necessary facilities for entering and making the examination.

(2) Upon hearing, the judge of the court shall have the power to fine the agent, owner, or operator in any sum not less than fifty dollars (\$50.00).

History. Acts 1893, No. 125, § 10, p. 213; C. & M. Dig., § 7253; Pope's Dig., § 9309; A.S.A. 1947, § 52-407.

Publisher's Notes. This section may be partially superseded by § 11-7-202.

11-7-210. Action to enjoin unsafe working conditions.

(a)(1) If the inspector shall, after examination of any mine and the works and machinery pertaining thereto, find the mine worked contrary to the provisions of this act or unsafe for the workmen employed therein, the inspector shall file a complaint before the judge of the circuit court in vacation or the circuit court when in session, in the name of the state, without cost or bond, showing that the owner, agent, or operator has failed to comply with the provisions of this act.

(2) The court or judge, after hearing the cause, shall, if satisfied the law has not been complied with, restrain or enjoin the owner, agent, or operator from operating the mine until the law is complied with.

(b)(1) In all proceedings before the court or judge, the owner, agent, or operator shall have two (2) days' notice of the intended application for restraining order.

(2) The judge or the court shall hear the complaint on affidavits or other testimony that may be offered in support, as well as in opposition thereto, and, if sufficient cause appear, the court, or judge in vacation, by order shall prohibit the further working of any mine in which persons may not be safely employed, or which is worked contrary to the provisions of this act, until the mine has been made safe and the requirements of this act shall have been complied with.

(3) The court shall award such costs in the proceedings as may be just, but any proceedings so commenced shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this act.

History. Acts 1893, No. 125, § 11, p. 125, codified as §§ 11-7-209, 11-7-210, 11-213; C. & M. Dig., § 7254; Pope's Dig., 7-301 — 11-7-305, 11-7-308, 11-7-309 — § 9310; A.S.A. 1947, § 52-408. 11-7-311, 11-7-317, 11-7-318, 15-59-111

Meaning of "this act". Acts 1893, No. [repealed].

11-7-211. Authority to arrest violators or clear mine — Injunctive relief for owner.

(a) The State Mine Inspector is empowered concurrently with the sheriffs and constables throughout the state to make arrests for any violations of the mining laws of this state, but he or she shall make no arrest until after notice has been given as provided in this act.

(b)(1) Where, in the opinion of the mine inspector, there is imminent danger to the life or health of the miners or employees in the mine, the mine inspector shall at once notify the person in charge of or operating the mine in which the dangerous condition exists to immediately remove the danger. On failure to remove the dangerous condition without unnecessary delay, the mine inspector shall order the mine or dangerous portion thereof cleared of all persons except those necessary to remove or remedy the dangerous condition.

(2) Upon the clearing of any mine of persons employed therein, as provided in this subsection, any owner, lessee, or agent in charge of or operating the mine may apply to the circuit court within whose

jurisdiction the mine lies for a writ of injunction to enjoin the mine inspector from continuing the prevention of the operation of the mine. Whereupon, the judge of the court, either in term or vacation, shall at once proceed to hear and determine the case, and if the cause appears to be sufficient after hearing the parties and their evidence, as in like cases, the judge shall sustain or overrule the mine inspector.

History. Acts 1917, No. 130, § 5, p. 683; C. & M. Dig., § 7255; Pope's Dig., § 9311; A.S.A. 1947, § 52-409.

Meaning of "this act". See note to § 11-7-201.

SUBCHAPTER 3 — REGULATION OF OPERATION

SECTION.

- 11-7-301. Penalty for endangering mine or miners.
- 11-7-302. Right of action for death or injury.
- 11-7-303. Map or plan of mine.
- 11-7-304. Mine openings and escapeways.
- 11-7-305. Ventilation generally.
- 11-7-306. Regulation of air currents.
- 11-7-307. Manner of working room and pillar plan mine.
- 11-7-308. Bore holes.
- 11-7-309. Means of signaling — Cages.
- 11-7-310. Gates, bonnets, and other safety measures.

SECTION.

- 11-7-311. Prop timbers.
- 11-7-312. Medical and emergency supplies.
- 11-7-313. Washroom and lockers.
- 11-7-314. Use of water on cutter bars and jackhammers required.
- 11-7-315. Daily inspection by fire boss.
- 11-7-316. High water danger.
- 11-7-317. Reports of accidents.
- 11-7-318. Age of miners.
- 11-7-319. Bond for semimonthly payment of wages.

Publisher's Notes. Act 1939, No. 101, § 1, provided that all statutes in force prior to February 17, 1939, which regulated coal mines or fixed the duties and jurisdiction of the state mine inspector should apply to all coal mines and their operators, irrespective of the number of persons employed in the mine.

Cross References. Mechanics' and materialmen's liens on mines, § 18-44-101 et seq.

Safety of miners, Ark. Const., Art. 19, § 18.

Effective Dates. Acts 1893, No. 125, § 17: effective 90 days after passage.

Acts 1905, No. 225, § 19: effective 20 days after passage.

Acts 1919, No. 134, § 7: approved Feb. 27, 1919. Emergency clause provided: "That all laws and parts of laws in conflict herewith be and the same are hereby repealed, and this Act being necessary for the public peace, health and safety, an emergency is hereby declared, and this

Act shall take effect and be in force from and after its passage."

Acts 1919, No. 686, §§ 2, 3: effective on passage. Emergency declared. Approved Apr. 5, 1919.

Acts 1921, No. 100, § 3: effective 90 days after passage.

Acts 1927, No. 58, § 2: effective 90 days after passage. Became law without Governor's signature, Mar. 2, 1927.

Acts 1937, No. 116, § 7: approved Feb. 23, 1937. Emergency clause provided: "Many employees of coal mines being in constant fear of not receiving their wages, an emergency is declared to exist and this act, being necessary for the public peace, health and safety, shall be in full force from and after its passage."

Acts 1949, No. 268, § 22: effective on passage and approval.

Acts 1957, No. 338, § 2: approved Mar. 27, 1957. Emergency clause provided: "Many employees of coal mines being in constant fear of not receiving their wages, an emergency is hereby declared to exist

and this Act, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage."

11-7-301. Penalty for endangering mine or miners.

(a) Any miner, workman, or other person who shall knowingly injure any water gauge, barometer, air course, or brattice or shall obstruct or throw open any airway, or carry any open flame lamp, or matches, into any mine or shall handle or disturb any part of the machinery of the hoisting engine or open a door to a mine, and not have the door closed again, whereby danger is produced, either to the mine or to those who work therein, who shall enter any part of the mine against caution, who shall disobey any order given in pursuance of this chapter, or who shall do any willful act whereby the lives and health of the persons working in the mine, or the security of the mine or miners or the machinery thereof is endangered, shall be deemed guilty of a misdemeanor.

(b) Upon conviction, the miner, worker, or other person shall be punished by a fine or imprisonment at the discretion of the court or jury hearing the case.

History. Acts 1893, No. 125, § 13, p. § 9326; Acts 1949, No. 268, § 5; A.S.A. 213; C. & M. Dig., § 7270; Pope's Dig., 1947, § 52-619.

11-7-302. Right of action for death or injury.

(a) For any injury to persons or property occasioned by willful violation of this chapter or willful failure to comply with any of its provisions, a right of action shall accrue to any party injured for any direct damages sustained thereby.

(b) Should death ensue from any injury, a cause of action shall survive in favor first of the widow and minor children of the deceased, and if there is no widow nor minor children, then in favor of the father, then the mother, and then the brothers and sisters and their descendants.

History. Acts 1893, No. 125, § 12, p. 213; 1905, No. 225, § 4, p. 567; C. & M. Dig., § 7269; Pope's Dig., § 9325; A.S.A. 1947, § 52-618.

Cross References. Liability for injuries to employees, fellow servant doctrine abolished, § 11-8-109.

11-7-303. Map or plan of mine.

(a)(1) The owner, agent, or operator of each and every coal mine in this state shall make, or cause to be made, an accurate and correct map or plan of the entire workings of the mine and every vein or deposit thereof showing the general inclination of the strata, together with any material deflections in the workings and the boundary lines of the area belonging to the mine, and deposit a true copy of the map or plan with

the clerk of the county court of the county wherein the mine or any part thereof may be located.

(2) The map or plan shall be so deposited during the period from January 1 to June 1 of each and every year, and the owner, agent, or operator shall furnish the clerk and State Mine Inspector with a sworn statement and further map or plan of the progress of the workings of the mine from the date of the last survey reported up to the making of same, and the mine inspector shall correct his or her map or plan in accordance therewith.

(3) When any mine is worked out or abandoned, that fact shall be reported to the mine inspector without delay, and the map or plan in the office of the clerk aforesaid shall be corrected and verified to conform to the facts then existing.

(4) All mine maps or plans must show the location of doors, overcast or air bridges, and the direction that all air currents are traveling shall be indicated by arrows.

(5) The clerk of the county court of the county in which mines are located shall file and safely keep all maps or plans of any mine, deposited in his or her office, and they shall be recorded as maps and plans of town sites are now recorded.

(b) The mine inspector shall send maps and plans of mines in his or her possession to the Secretary of State for safekeeping at the end of every two (2) years, during the month of July. The mine maps and plans shall be kept in a vault for this special purpose for the guidance of anyone interested therein.

(c)(1) The owner, agent, or operator of any mine neglecting, failing, or refusing to furnish the mine inspector and county clerk a statement, map, or plan or addition thereto at the time and in the manner provided in subsection (a) of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined in any sum not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500).

(2) Each day that the neglect, failure, or refusal continues shall constitute a separate offense.

(3) This penalty shall be in addition to the rights conferred upon the mine inspector by law to have the maps or plans made at the expense of the owner, agent, or operator.

(d) Whenever the owner, agent, or operator of any mine shall neglect, fail, or refuse to furnish the mine inspector and clerk, as provided in subsection (a) of this section, with a statement, map, or plan or additions thereto, at the time and in the manner therein provided, the mine inspector is authorized to cause an accurate map or plan of the workings of the mine to be made at the expense of the owner, agent, or operator, and the cost thereof may be recovered by the mine inspector from the owner, agent, or operator.

History. Acts 1893, No. 125, §§ 1, 2, p. 213; 1905, No. 225, § 1, p. 567; C. & M. Dig., §§ 7260, 7261; Acts 1921, No. 100, § 1; 1927, No. 58, § 1; Pope's Dig.,

§§ 9316, 9317; A.S.A. 1947, §§ 52-601, 52-602.

Publisher's Notes. Acts 1921, No. 100, § 2, provided that the act would not be

construed as repealing any law then in effect except where the law was in direct conflict with the act, and the act would be cumulative to existing laws regulating mines.

11-7-304. Mine openings and escapeways.

(a)(1) Every underground mine shall have at least two (2) separate surface openings.

(2) Main slope and drift openings shall be separated by at least twenty-five feet (25') of natural ground in all mines opened after June 9, 1949.

(3) New shafts and partitions therein, made after June 9, 1949, shall be fireproof.

(4) Buntons and guides may be of wood.

(5) Mine openings at isolated locations, where there is danger of fire entering the mine, shall have adequate protection against surface fires entering the mine.

(b) Not more than twenty (20) persons shall be allowed at any one (1) time in the mine until a connection has been made between the two (2) mine openings, and work shall be prosecuted with reasonable diligence. When only one (1) opening is available, owing to final mining of pillars, not more than twenty (20) persons shall be allowed in the mine at any one (1) time.

(c)(1) There shall be at least two (2) travelable passageways, to be designated as "escapeways", from each working section to the surface, whether the mine openings are shafts, slopes, or drift. These shall be kept in safe condition for travel and reasonably free from standing water and other obstructions.

(2) One (1) of the designated escapeways may be the haulage road.

(3) One (1) of the escapeways must be ventilated with intake air.

(4) At mines now operating with only one (1) free passageway to the surface, immediate action shall be taken to provide a second passageway.

(d)(1) Where the designated escapeways are shafts, they shall be equipped with hoist and cage or with travelable stairways or ladders.

(2) No shaft more than thirty feet (30') deep, sunk after June 9, 1949, shall be equipped with ladders.

(3)(A) Stairways shall be of substantial construction, set at an angle not greater than forty-five degrees (45°) with the horizontal, and equipped on at least one (1) side with a suitable handrail.

(B) Landing platforms shall be at least two feet (2') wide and four feet (4') long and shall be railed properly.

(4) Ladders shall be anchored securely.

(5) Where ladders or stairways set at an angle greater than forty-five degrees (45°) are now installed, their use may be continued, provided that they are of substantial construction, with platforms at intervals of not more than thirty feet (30') and equipped with a handrail in the case of stairways.

(e)(1) If a designated escapeway is a slope of not more than forty-five degrees (45°), it shall be equipped with a stairway or adequate walkway with cleats.

(2) If the slope is more than forty-five degrees (45°), stairways shall be installed.

(f) Direction signs shall be posted conspicuously to indicate manways and designated escapeways.

(g) Good housekeeping shall be practiced underground.

History. Acts 1893, No. 125, § 3, p. § 9318; Acts 1949, No. 268, § 1; A.S.A. 213; C. & M. Dig., § 7262; Pope's Dig., 1947, § 52-603.

11-7-305. Ventilation generally.

(a) The owner, agent, or operator of every mine, whether operated by shaft, slope, or drift, shall provide and maintain for every mine a sufficient amount of ventilation, to be determined by the State Mine Inspector, not less than two hundred cubic feet (200 cu. ft.) of air per man per minute, measured at the foot of the downcast, which shall be circulated to the face of every working place throughout the mine, so that the mine shall be free of standing gas of whatsoever kind.

(b) In all mines where firedamp is generated, every working place where firedamp is known to exist shall be examined every morning with a safety lamp by a competent person before any other persons are allowed to enter.

(c) The ventilation required by this section may be produced by any suitable appliances.

History. Acts 1893, No. 125, § 4, p. § 9319; Acts 1949, No. 268, § 2; A.S.A. 213; C. & M. Dig., § 7263; Pope's Dig., 1947, § 52-604.

CASE NOTES

Purpose.

This section contemplates that the air shall be carried to the extremest point where the pick falls, and that the entire

mine shall be free of gas. *Western Coal & Mining Co. v. Jones*, 75 Ark. 76, 87 S.W. 440 (1905).

11-7-306. Regulation of air currents.

(a) Air regulation of all slopes, drifts, or shafts used for hoisting or hauling coal shall be made at the intake of air into the mine, except at the option of the owner or by direction of the State Mine Inspector, and all air that goes into the mine shall be so split that not more than fifty (50) employees will be working on each split of air, and not less than two hundred cubic feet (200 cu. ft.) of air per man shall pass each working face per minute, and the air shall be sufficient to dilute all noxious or explosive gases.

(b) It shall be the duty of the mine inspector to measure the air at all working faces in making his or her inspection.

(c) The machinery and appliances used for conducting or driving the air into the mines shall be so installed, arranged, and adjusted that the air currents may be easily and speedily reversed in emergencies.

History. Acts 1905, No. 225, § 17, p. § 7284; Pope's Dig., § 9340; Acts 1949, 567; 1919, No. 686, § 1; C. & M. Dig., No. 268, § 8; A.S.A. 1947, § 52-605.

CASE NOTES

ANALYSIS

Negligence.
Noncompliance.

Negligence.

Negligence of a mining company which permitted a pumper to remain at work after a fan was turned off in violation of this section was held a question for the jury in an action for an employee's death

by gas explosion. *Midland Coal Mining Co. v. Rodden*, 184 Ark. 157, 41 S.W.2d 777 (1931).

Noncompliance.

Noncompliance with this section will not be excused upon the ground that it was not practical to comply. *Central Coal & Coke Co. v. Barnes*, 149 Ark. 533, 233 S.W. 683 (1921).

11-7-307. Manner of working room and pillar plan mine.

(a) The owner, agent, lessee, or operator of any coal mine in this state, if the mine is worked on the room and pillar plan, shall cause the work to be prosecuted in the mine in the following manner:

(1) Two (2) entries parallel with each other must be driven for the ingress and egress of the air, and crosscuts must be made at intervals not to exceed forty feet (40') apart;

(2) Where gas exists the crosscuts shall be driven thirty feet (30') apart or a crosscut shall be made at any other place ordered by the management;

(3) No room shall be turned inside the last course cut.

(b)(1) The State Mine Inspector shall give notice in writing to the owner, agent, lessee, or operator in charge of each coal mine worked on the room and pillar plan, to conform to the requirements set out in subsection (a) of this section.

(2) If the requirements are not complied with in the mines, then the owner, agent, lessee, or operator so failing shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each day in which the mine is operated in violation of the above requirements.

History. Acts 1905, No. 225, §§ 7, 8, p. Dig., §§ 9333, 9334; A.S.A. 1947, §§ 52-607; C. & M. Dig., §§ 7277, 7278; Pope's 607, 52-608.

11-7-308. Bore holes.

The owner, agent, or operator shall provide that a bore hole shall be kept twenty feet (20') in advance of the face of each and every working face and at a forty-five degree (45°) angle at intervals of eight feet (8') on each rib of the working face when driving toward an abandoned mine

or parts of a mine suspected of containing inflammable gases or of being inundated with water.

History. Acts 1893, No. 125, § 5, p. § 9320; Acts 1949, No. 268, § 3; A.S.A. 213; C. & M. Dig., § 7264; Pope's Dig., 1947, § 52-606.

11-7-309. Means of signaling — Cages.

(a) The owner, agent, or operator of every mine operated by shaft shall provide suitable means for signaling between the bottom and top thereof.

(b)(1) He or she shall also provide safe means of hoisting and lowering persons in a cage covered with boiler iron, so as to keep safe, as far as possible, persons descending into or ascending out of the mine.

(2) The cages shall be furnished with guides to conduct it through slides through the shaft with a sufficient brake on every drum to prevent accident in case of the giving out or breaking of the machinery.

(3) The cage shall be furnished with spring catches, intended and provided so far as possible to prevent the consequences of cable breaking or the loosening or disconnecting of the machinery.

(4) No props or rails shall be lowered in a cage in every case while men are descending into or ascending out of the mine.

(5) When men are ascending or descending, the opposite cage in every case shall be empty.

(6) No owner, agent, or operator of any coal mine operated by a shaft or slope shall place in charge of any engine whereby men are lowered into or hoisted out of the mines anyone but an experienced, competent, and sober person not under eighteen (18) years of age.

(7) No person shall be permitted to ride upon a loaded cage or wagon used for hoisting purposes in any shaft or slope, except persons employed for that purpose.

(8) In no case shall any coal be hoisted out of any mine while any person or persons are descending into the mine.

(9) In no case shall more than one (1) member of the same family ascend or descend on a cage.

(10) No more than eight (8) persons shall ascend out of or descend into any mine on one (1) cage at one (1) time, nor shall they be lowered or hoisted more rapidly than five hundred feet (500') to the minute.

History. Acts 1893, No. 125, §§ 6, 7, p. Dig., §§ 9321, 9322; Acts 1949, No. 268, 213; C. & M. Dig., §§ 7265, 7266; Pope's § 4; A.S.A. 1947, §§ 52-611, 52-612.

11-7-310. Gates, bonnets, and other safety measures.

(a) The owner, agent, or operator shall cause every landing on a level or above the surface of the ground and the entrance to each intermediate vein to be securely fenced by a gate and a bonnet so prepared to cover and protect the shaft and the entrances thereto.

(b) The entrance to every abandoned slope, air, or other shaft shall be securely fenced off.

(c) Every steam boiler shall be provided with proper steam gauge, water gauge, and safety valve.

(d) All underground self-acting or engine plains or gangways on which cars are drawn and persons allowed to travel shall be provided with some proper means of signaling between stopping places, and the end of the plains and gangways and sufficient places of refuge at the side of the plains or gangways shall be provided at intervals of not more than thirty feet (30') apart.

History. Acts 1893, No. 125, § 8, p. 213; C. & M. Dig., § 7267; Pope's Dig., § 9323; A.S.A. 1947, § 52-613.

11-7-311. Prop timbers.

The owner, agent, or operator of any mine shall keep a sufficient amount of timber when required to be used as props, so that workmen can at all times be able to properly secure the workings from caving in. It shall be the duty of the owner, agent, or operator to send down all props when required and deliver the props to the place where cars are delivered. Timbering shall be done in a safe and workmanlike manner.

History. Acts 1893, No. 125, § 14, p. 213; C. & M. Dig., § 7271; Pope's Dig., § 9327; Acts 1949, No. 268, § 6; A.S.A. 1947, § 52-614.

CASE NOTES

ANALYSIS

Construction.
Agents.
Defenses.
Jury Question.
Pleading.
Unavailability.

Construction.

The word "required" means requested or demanded. *Mama Coal Co. v. Colo*, 158 Ark. 408, 250 S.W. 327 (1923).

Agents.

Where a mine owner delegated the statutory duty to furnish props when requested, it is responsible for a failure resulting from the negligence of the agent chosen by it to perform the duty. *Mama Coal Co. v. Colo*, 158 Ark. 408, 250 S.W. 327 (1923).

Defenses.

Assumed risk and contributory negligence were not available defenses in actions under this section. *Johnson v. Mammoth Vein Coal Co.*, 88 Ark. 243, 114 S.W. 722 (1908); *Western Coal & Mining Co. v.*

Watts, 131 Ark. 562, 199 S.W. 921 (1917); *Southern Anthracite Coal Mining Co. v. Rice*, 156 Ark. 94, 245 S.W. 805 (1922); *Brown v. Hames*, 207 Ark. 196, 179 S.W.2d 689 (1944).

Jury Question.

It is a question for the jury whether the necessary props were requested and whether the mine operator's failure to supply props was proximate cause of injury. *Western Coal & Mining Co. v. Watts*, 131 Ark. 562, 199 S.W. 921 (1917).

Pleading.

Allegation that company failed to furnish props when requested states a cause of action under this section. *New Union Coal Co. v. Walker*, 182 Ark. 460, 31 S.W.2d 753 (1930).

Unavailability.

Unavailability of timbers was tantamount to a refusal to comply with demand by miner for timbers, since it was the company's duty to have them. *Brown v. Hames*, 207 Ark. 196, 179 S.W.2d 689 (1944).

11-7-312. Medical and emergency supplies.

(a) There shall be kept in the engine room or at some nearby and convenient place at each mine a supply of oils, bandages, blankets or covers for wraps, and a cot or stretcher for the use of and to be used by persons who may receive injuries in or at the mines.

(b) The agent, owner, lessee, or operator shall also provide and maintain at some convenient place a conveyance in which to take from the mines to their place of abode persons who may be injured.

History. Acts 1905, No. 225, § 12, p. 567; C. & M. Dig., § 7281; Pope's Dig., § 9337; A.S.A. 1947, § 52-615.

11-7-313. Washroom and lockers.

(a) It shall be the duty of every owner or lessee, its officers and agents, or other persons having jurisdiction or direction of any coal mine within the State of Arkansas to provide a suitable building which shall be convenient to the principal entrance of the mine and equipped with individual lockers or hangers, benches or seats, proper light, heat, hot and cold water, and shower baths, and maintain them in good order for the use and benefit of all persons employed in or about the mine.

(b)(1) The building shall be constructed so as to give sufficient floor space for the accommodation of miners or others using it.

(2) The flooring in the washroom of the building is to be made of concrete or cement, but the material used in flooring the changing room shall be optional with the owner, lessee, or person operating or directing the operation of the mine.

(3)(A) All lockers required by this section, when made of steel, shall be not less than twelve inches (12") in width, twelve inches (12") in depth, and sixty inches (60") in height.

(B) When the lockers are made of lumber, they shall not be less than twelve inches (12") in depth, twelve inches (12") in width, and sixty inches (60") in height, with partitions in the center.

(4) Individual hangers shall consist of not less than three (3) suitable hooks upon which to hang clothing and a receptacle of suitable size for use in connection therewith, attached to a proper chain or wire rope, and suspended so as to admit of the hanger being raised to such height that the wearing apparel, when hung thereon, will not be less than seven feet (7') above the floor of the building and capable of being locked in that position.

(5) The lockers or hangers in each washhouse shall be sufficient in number to accommodate all employees of the mine or mines, and there shall be one (1) shower bath for each fifteen (15) employees.

(c) The employees shall furnish their own towels, soap, and lock for their lockers or hangers and shall exercise control over and be responsible for the property by them left therein.

(d) It shall be the duty of all persons using the washhouses to remove therefrom all cast-off wearing apparel.

(e) Every corporation, company, partnership, or person, who or which shall construct any building required by subsections (a)-(d) of this section and shall install the washhouse and washhouse facilities as required therein, shall at all times during the operation of any mine keep them in a clean and sanitary condition but shall not be liable for the loss or destruction of any property of employees left in the building.

(f) It shall be the duty of the State Mine Inspector, and he or she is by this section authorized, to require washhouses already in existence to be so changed, remodeled, and improved as to comply with the provisions of this section. He or she shall have general supervision of this chapter and its enforcement.

(g)(1) Any owner or lessee, its officers or agents, or other person or persons failing or refusing to comply with the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

(2) Each day's violation shall constitute a separate offense and shall be punished as such.

(h)(1) It shall be unlawful for any person to break, injure, or destroy any part or appurtenance to any washhouse or commit any nuisance therein.

(2) Any person adjudged guilty of a violation of this subsection shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

History. Acts 1919, No. 134, §§ 1-4, 6; Dig., §§ 9343-9346, 9348; A.S.A. 1947, C. & M. Dig., §§ 7287-7290, 7292; Pope's §§ 52-621—52-624, 52-626.

11-7-314. Use of water on cutter bars and jackhammers required.

(a) In order to promote safety in coal mines by eliminating the hazards of coal and rock dust in coal mines, it is made the duty of every person, partnership, association, corporation, owner, operator, or lessee of any coal mine in this state to employ and use water on the cutter bars of all mining machines while cutting rock or coal in the mines and on all jackhammer drills while drilling in the mines in either coal or rock.

(b) Any person, partnership, association, corporation, owner, operator, or lessee of any coal mine in this state who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500). Each separate instance of the violation of this section, either by the cutting machines or the jackhammers, shall be deemed a separate offense.

(c) It is also made unlawful for any person, miner, operator of a jackhammer drill, or machine runner to operate either a mining machine without water on the cutter bar or a jackhammer drill contrary to the provisions of this section. Any person so doing shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less

than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100). Each separate operation shall constitute a separate offense.

History. Acts 1947, No. 139, §§ 1-3; A.S.A. 1947, §§ 52-627—52-629.

11-7-315. Daily inspection by fire boss.

(a) In all mines where a fire boss is employed, all working places and worked-out places adjacent to working places shall be examined, when it can be done, at least once a day by a competent fire boss. It shall be his or her duty to enter a report of existing conditions of the working places and worked-out places in a well-bound book to be kept by him or her for that purpose.

(b) All dangerous places that are marked out shall be marked on a blackboard, furnished by the company, before any other employee enters the mine.

History. Acts 1905, No. 225, § 10, p. 567; C. & M. Dig., § 7279; Pope's Dig., § 9335; A.S.A. 1947, § 52-609.

CASE NOTES

Cited: Central Coal & Coke Co. v. Barnes, 149 Ark. 533, 233 S.W. 683 (1921).

11-7-316. High water danger.

(a) Whenever and wherever a coal mine in this state becomes dangerous from high water or overflow of streams adjacent thereto, whereby the lives of miners employed therein are jeopardized by reason of the high water, it shall be the duty of the managers of the coal mine to call the miners out of the mine and forbid their working therein until the danger is past.

(b)(1) Failure to act as required in subsection (a) of this section is made a misdemeanor.

(2) Upon conviction, the manager shall be fined in any sum not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) or imprisoned not less than six (6) months nor more than one (1) year.

History. Acts 1905, No. 225, § 18, p. 567; C. & M. Dig., § 7285; Pope's Dig., § 9341; A.S.A. 1947, § 52-616.

11-7-317. Reports of accidents.

(a) Whenever loss of life or serious personal injury shall occur by reason of any explosion or of any accident whatever in or about any mine, it shall be the duty of the person having charge of the mine to report the facts thereof without delay to the State Mine Inspector and,

if any person is killed thereby, to notify the coroner or some justice of the peace of the county.

(b)(1) It shall be the duty of the mine inspector to investigate and ascertain the cause of the explosion and file a report thereof with the other records of his or her office.

(2) To enable him or her to make the investigations, he or she shall have power to compel attendance of witnesses, take depositions, and administer oaths, and the cost of the examination shall be paid by the county as costs of coroners' inquests are now paid.

(c) Failure of the person in charge of the mine where the accident occurred to give the mine inspector notice thereof shall be a misdemeanor.

History. Acts 1893, No. 125, § 9, p. 213; C. & M. Dig., § 7268; Pope's Dig., § 9324; A.S.A. 1947, § 52-617.

11-7-318. Age of miners.

No person under the age of eighteen (18) years shall be permitted to enter any mine to work therein.

History. Acts 1893, No. 125, § 7, p. 213; C. & M. Dig., § 7266; Pope's Dig., § 9322; Acts 1949, No. 268, § 4; A.S.A. 1947, § 52-612; 2005, No. 442, § 1.

Cross References. Certain kinds of employment of children under 16 prohibited, § 11-6-106.

11-7-319. Bond for semimonthly payment of wages.

(a)(1) Every person, firm, association, or corporation engaged in mining or producing coal or in the operation of a coal mine or coal mining business and employing more than three (3) persons in connection therewith shall give a qualified bond with good and sufficient surety to the State of Arkansas, for the use and benefit of the employees, conditioned to the effect that the employer will pay to the employees semimonthly the full amount that shall be due the employees on each semimonthly payday, as defined in this section.

(2) The bond shall be in the amount as scheduled in this subsection, based upon the number of employees of any coal mine for which the bond is made, as follows:

(A) Where the number of employees is not less than three (3) but less than twelve (12), the bond shall be two thousand five hundred dollars (\$2,500);

(B) Where the number of employees is not less than twelve (12) but less than fifty (50), the bond shall be eight thousand dollars (\$8,000);

(C) Where the number of employees is not less than fifty (50) but less than one hundred fifty (150), the amount of the bond shall be ten thousand dollars (\$10,000);

(D) Where the number of employees is not less than one hundred fifty (150) but less than three hundred (300), the amount of the bond shall be fifteen thousand dollars (\$15,000);

(E) Where the number of employees is three hundred (300) or more, the amount of the bond shall be twenty thousand dollars (\$20,000).

(3) In the event any one (1) person, firm, association, or corporation shall operate more than one (1) coal mine, a separate bond shall be given for the benefit of the employees in each mine.

(4) The bond shall be filed with the clerk of the circuit court and shall be approved by the circuit court of the county where the labor, to secure the payment of which the bond is given, shall be performed.

(5)(A) In the event of variance in the number of employees, or when any bond shall not conform with the above schedule, any employee or interested person may, upon showing to the circuit court, have the court declare the number of employees of the employer in any mine, and thereupon, the court shall fix the amount of bond required by appropriate order.

(B) Any interested person may appeal the order in the manner now provided by law.

(6) The bond shall secure claims for labor only, including assignees of claims for labor and those who have advanced any money or thing of value to any employee on the order of his employer.

(b)(1)(A) Any employee or group of employees, who shall not be paid their wages when due, may proceed against the principal and sureties on the bond in an action in the circuit court of the county where the mine at which the labor was performed is situated, and for this purpose the mine shall be deemed to be situated at the place where its principal opening is situated.

(B) Any employees in the same mine may join in one (1) action, and process in the action shall run throughout the state.

(2) In an action brought to recover on the bond, the court shall assess a reasonable attorney's fee for the attorney for the plaintiff if the plaintiff prevails therein, the fee to be adjudged as costs against the principal and sureties in the bond.

(3) No wages shall be deemed to be due for labor performed during the first half of any month until the first weekday of the following month and for labor performed during the last half of any month until the sixteenth day of the following month, and any action to recover on the bond must be commenced within thirty (30) days from the date of default in the payment of wages when due.

(c)(1) Any person, firm, association, or corporation who shall fail or refuse to comply with the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each violation.

(2) When any person, firm, or corporation shall fail or refuse to comply herewith, the State Mine Inspector or any interested person may apply to the circuit court having jurisdiction pursuant to subdivision (a)(4) of this section for an order enjoining and preventing the operation of any mine, by anyone, until this section is complied with, and upon proper showing, the order shall be made by the circuit court.

(3) The mine inspector, in his or her official capacity, shall not be required to give bond to obtain the order.

(4) Any regularly constituted labor union of mining laborers shall be deemed an interested person within the meaning of this section.

(d) This section shall not prevent the enforcement of any remedies now provided for laborers to enforce payment of their wages but shall be cumulative thereto; provided, the remedy here provided must be exhausted before any other remedy may be invoked.

History. Acts 1937, No. 116, § 1; Pope's §§ 1, 2; 1957, No. 338, § 1; A.S.A. 1947, Dig., §§ 8543-8548; Acts 1939, No. 193, §§ 52-630, 52-631.

CASE NOTES

Cited: Bates Coal and Mining Co. v. Mannon, 205 Ark. 215, 168 S.W.2d 408 (1943).

SUBCHAPTER 4 — EMPLOYEE CERTIFICATION

SECTION.

- 11-7-401. Coal Mine Examining Board — Members, organization, and proceedings.
- 11-7-402. Coal Mine Examining Board — Power to administer oaths.
- 11-7-403. Fire bosses, mine foremen, etc. — Examination — Qualifications.
- 11-7-404. Fire bosses, mine foremen, etc. — Certificate — Grades.
- 11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.
- 11-7-406. Fire bosses, mine foremen, etc. — Revocation of certificate.
- 11-7-407. Fire bosses, mine foremen, etc. — Misrepresentation of certificate.

SECTION.

- 11-7-408. Penalty for violation of § 11-7-401 and §§ 11-7-403 — 11-7-407.
- 11-7-409. Coal miners — Definition.
- 11-7-410. Coal miners — Certificate required.
- 11-7-411. Coal miners — Examination — Qualifications — Certificates.
- 11-7-412. Coal miners — Temporary permit — Grandfather clause.
- 11-7-413. Coal miners — Apprentices.
- 11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

Publisher's Notes. The Coal Mine Examining Board, referred to throughout this subchapter, has been abolished and its powers transferred to the Director of the Department of Labor. See Publisher's Notes, § 11-7-401.

Effective Dates. Acts 1919, No. 486, § 10: May 1, 1919.

Acts 1949, No. 268, § 22: effective on passage and approval.

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the Gen-

eral Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become ef-

fective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor

may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

RESEARCH REFERENCES

Ark. L. Rev. Administrative License Revocation in Arkansas, 14 Ark. L. Rev. 139.

11-7-401. Coal Mine Examining Board — Members, organization, and proceedings.

(a)(1) There shall be appointed by the Governor a board of four (4) examiners appointed for a term of four (4) years:

(A) Two (2) of the board members shall be practical miners who have had at least eight (8) years' experience as miners in mines of Arkansas or elsewhere; and

(B) Two (2) of the members shall be operators of coal mines in the State of Arkansas or representatives thereof.

(2) One (1) additional member of the board shall be selected by the four (4) appointed members.

(b) The members of the examining board may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) Immediately after their appointment, the examiners shall meet and organize by selecting a chair and secretary. The secretary shall keep on file all examination questions and their answers and all examination records and papers belonging to the board.

(d) The examining board shall convene upon call of the chair and, except in case of emergency, notices shall be published in one (1) newspaper of general circulation in each county in which there are coal mines, at least five (5) days before the day of the meeting.

History. Acts 1919, No. 486, §§ 1, 2; C. & M. Dig., §§ 7317, 7318; Pope's Dig., §§ 9373, 9374; A.S.A. 1947, §§ 52-501, 52-502; Acts 1997, No. 250, § 59.

Publisher's Notes. Acts 1989, No. 536,

§ 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

11-7-402. Coal Mine Examining Board — Power to administer oaths.

(a) In order to more effectively carry out the intentions and purposes of this section and §§ 11-7-409 — 11-7-414, members of the Coal Mine Examining Board shall have the power to administer oaths to any and all persons who are applicants, or who may vouch, in any manner, for the previous service or qualifications of any applicant in order to obtain

for him or her a certificate pursuant to this section and §§ 11-7-409 — 11-7-414.

(b) Any person who shall falsely testify or swear to any matter material to such examination or to the service or qualification of any applicant shall be deemed guilty of perjury and upon conviction shall be subject to the penalties prescribed by the laws of the State of Arkansas against those who commit perjury.

History. Acts 1949, No. 268, § 17; A.S.A. 1947, § 52-517.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties,

and functions to the Director of the Department of Labor.

Cross References. Perjury, § 5-53-101 et seq.

11-7-403. Fire bosses, mine foremen, etc. — Examination — Qualifications.

(a) No fire bosses, hoisting engineers, or mine foremen shall be employed in any mine in the State of Arkansas unless they have been examined by the Department of Labor or the department determines that comparable testing criteria have been met in another jurisdiction.

(b) No one shall act as State Mine Inspector or Assistant State Mine Inspector unless he or she has been examined by the department, as provided in this section.

(c) Applicants for examination shall be able to read and write the English language and shall satisfy the department that they are of good moral character and are not users of intoxicating liquors and are citizens of the United States.

(d) All applicants shall be thoroughly examined with reference to the duties of the positions for which they have applied for a certificate.

(e)(1) Applicants for certificates as mine foremen shall be at least twenty-five (25) years old and shall have had at least five (5) years' experience as practical coal miners, mining engineers, or persons of general underground experience.

(2) Applicants for certificates as fire bosses shall have like qualifications and experience in the mines of Arkansas or elsewhere and shall also have had experience in mines that generate explosive and noxious gases.

(f)(1) Applicants for certificates as mine inspector shall, before examination, pay to the department a fee of four dollars (\$4.00) and, if successful, a further fee of six dollars (\$6.00) for a certificate.

(2) Applicants for certificates as assistant mine inspector shall, before examination, pay to the department a fee of three dollars (\$3.00) and, if successful, a further fee of four dollars and fifty cents (\$4.50) for a certificate.

(3) Applicants for certificates as mine foremen and hoisting engineers shall, before examination, pay to the department a fee of two dollars (\$2.00) and, if successful, a further fee of three dollars (\$3.00) for a certificate.

(4) Other applicants shall, before examination, pay to the department of examiners a fee of one dollar (\$1.00) and, if successful, a further fee of two dollars (\$2.00) for a certificate.

History. Acts 1919, No. 486, § 3; C. & M. Dig., § 7319; Pope's Dig., § 9375; A.S.A. 1947, § 52-503; Acts 2003, No. 358, § 1.

A.C.R.C. Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties,

and functions to the Director of the Department of Labor.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

11-7-404. Fire bosses, mine foremen, etc. — Certificate — Grades.

(a)(1) The Director of the Department of Labor shall grant certificates after examination by the Department of Labor or a determination by the department that the testing requirements have been satisfied in another jurisdiction.

(2) The certificates shall be granted to all applicants who through these testing procedures have shown themselves to be familiar with the duties of the position for which they desire certificates and are capable of performing the duties.

(3) Certificates of the first grade shall be granted only to applicants who by oral or written examinations in the presence of and relating to explosive gas have shown themselves competent to act as mine foremen in mines which generate explosive and noxious gases, and the certificate shall so state.

(4) Certificates for mine inspector and assistant mine inspector shall be granted only to applicants who have shown themselves duly qualified, as provided by the law creating the office, and no appointments shall be made to these offices unless the appointee shall hold a certificate.

(b)(1) Anyone holding a first grade foreman's certificate may serve as a foreman in any mine and may serve as fire boss.

(2) Anyone holding a second grade mine foreman's certificate may serve as any of the above, except as fire boss and foreman in mines which generate explosive or noxious gases.

(3) In case of emergency, any mine owner, with consent of the Coal Mine Examining Board, may employ any trustworthy or experienced man or woman who shall not possess a certificate, for a period of not more than thirty (30) days as mine foreman or fire boss. In the event that the holder of a permit fails to qualify after thirty (30) days, his or her permit shall be revoked.

History. Acts 1919, No. 486, §§ 4, 5; C. & M. Dig., §§ 7320, 7321; Pope's Dig., §§ 9376, 9377; Acts 1949, No. 268, § 9; A.S.A. 1947, §§ 52-504, 52-505; Acts 2003, No. 358, § 2.

A.C.R.C. Notes. Acts 1989, No. 536,

§ 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining

Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

11-7-405. Fire bosses, mine foremen, etc. — Duplicate certificate.

In case of loss or destruction of a certificate, the secretary of the examining board, upon satisfactory proof of the loss or destruction, may issue a duplicate on the payment of the sum of one dollar (\$1.00).

History. Acts 1919, No. 486, § 7; C. & M. Dig., § 7323; Pope's Dig., § 9379; A.S.A. 1947, § 52-507.

§ 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Publisher's Notes. Acts 1989, No. 536,

11-7-406. Fire bosses, mine foremen, etc. — Revocation of certificate.

(a) All certificates issued pursuant to this subchapter may be revoked by the board of examiners after a hearing upon due notice to the holder of the certificate and upon written charges preferred by the board or by some interested person for violation of §§ 11-7-401 and 11-7-403 — 11-7-407.

(b)(1) A complaint may be filed against the holder of a certificate for intoxication, mental disabilities, neglect of duty, or other sufficient cause.

(2) The holder of the certificate so cancelled shall have the right to appear before the examining board after the expiration of three (3) months and be reexamined if he shall first satisfy the board that the incapacity complained of shall have ceased to exist.

History. Acts 1919, No. 486, § 8; C. & M. Dig., § 7324; Pope's Dig., § 9380; A.S.A. 1947, § 52-508.

§ 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Publisher's Notes. Acts 1989, No. 536,

11-7-407. Fire bosses, mine foremen, etc. — Misrepresentation of certificate.

Any person who shall forge, alter, or counterfeit a certificate, shall secure or attempt to secure employment by use of the forged, altered, or counterfeited certificate, or shall falsely represent that he is a holder of a certificate regularly issued him shall be guilty of a misdemeanor.

History. Acts 1919, No. 486, § 6; C. & M. Dig., § 7322; Pope's Dig., § 9378; A.S.A. 1947, § 52-506.

§ 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Publisher's Notes. Acts 1989, No. 536,

11-7-408. Penalty for violation of § 11-7-401 and §§ 11-7-403 — 11-7-407.

(a) Any owner, operator, lessee, or agent of any coal mine in the State of Arkansas violating any of the provisions of § 11-7-401 and §§ 11-7-403 — 11-7-407 shall be deemed guilty of a misdemeanor.

(b) Upon conviction, he or she shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100) or be imprisoned in the county jail not exceeding one (1) year, or both.

History. Acts 1919, No. 486, § 9; C. & M. Dig., § 7325; Pope's Dig., § 9381; A.S.A. 1947, § 52-509.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

11-7-409. Coal miners — Definition.

(a) The term "coal miner" as used in §§ 11-7-402 and 11-7-410 — 11-7-414, unless the context otherwise requires, shall be construed to mean any person working underground or in development in shafts, slopes, drifts, or tunnels for the extraction or production of coal or rock.

(b) The term "coal miner" in strip pit operation is defined as only those employees engaged in the extraction of coal from the pit.

History. Acts 1949, No. 268, § 11; A.S.A. 1947, § 52-511.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

11-7-410. Coal miners — Certificate required.

(a) It shall be unlawful for any person to work as a coal miner in any coal mine in this state without first having a certificate of qualification and competency to do so from the Coal Mine Examining Board of this state, nor shall any person, firm, or corporation employ as a coal miner in his or her coal mine in the State of Arkansas any person who does not hold a certificate, nor shall any mine foreman, overseer, or superintendent permit or suffer any person to be employed under him or her, or in any coal mine under his or her charge or supervision, as a coal miner in this state, except as provided in this act, who does not hold a certificate of qualification.

(b) Any person, firm, or corporation who violates any of the provisions of this section or § 11-7-411 shall be deemed guilty of a misdemeanor and on conviction shall be fined in the sum of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) or by imprisonment for a term of not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment, at the discretion of the court or jury trying the case.

History. Acts 1949, No. 268, § 16; A.S.A. 1947, § 52-516.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Board and transferred its powers, duties, and functions to the Director of the Department of Labor.

Meaning of "this act". Acts 1949, No. 268, codified as §§ 11-7-207, 11-7-301, 11-

7-304, 11-7-305, 11-7-306, 11-7-308, 11-7-309, 11-7-311, 11-7-318, 11-7-402, 11-7-404, 11-7-409 — 11-7-414, 15-59-106 [repealed].

11-7-411. Coal miners — Examination — Qualifications — Certificates.

(a) The Coal Mine Examining Board of this state shall hold sufficient examinations each year in places to be determined by the board, which, in its opinion, will be most convenient to applicants desiring to engage in the business of coal mining.

(b) All examinations held by the Coal Mine Examining Board shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of each applicant.

(c) The board shall examine under oath all persons who may apply for certificates, except those regularly employed in the State of Arkansas and exempted under the provisions of § 11-7-409, as to their previous experience as coal miners and shall grant certificates of competency and qualification to such applicants as it may find to be qualified. The certificate, when so issued, shall entitle the holder thereof to be employed as, and to do the work of, a coal miner in this state.

(d)(1) No certificate of competency and qualification shall be issued or delivered to any person under this act, unless:

(A) He or she first shall produce evidence of having had not less than two (2) years of practical experience working as a coal miner or working with a coal miner; and

(B) He or she is competent to mine coal in the coal mines of this state.

(2) In no case shall the applicant be deemed competent or qualified under this act unless he or she appears in person before the examining board and orally answers intelligently and correctly at least twelve (12) practical questions propounded to him or her by the board pertaining to requirements and qualifications of a practical coal miner.

(e) The board shall keep an accurate record of its proceedings and meetings and in the record shall show a correct detailed account of the examination of each applicant with the questions asked and his or her answers, and at each of its meetings, the board shall keep the records open for the inspection of the parties in interest.

(f) No miner's certificate granted under the provisions of this act shall be transferable, and any effort to transfer the certificate shall be deemed a violation of this act.

(g) The certificate shall be issued only at meetings of the board, and the certificate shall not be legal unless signed by at least a majority of the members of the board.

(h)(1) Each applicant for the certificate provided for herein shall pay a fee of fifty cents (50¢) to the board at the time of making application

and, if successful in the examination, shall pay an additional fee of fifty cents (50¢) for the certificate.

(2) All fees collected from these applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

History. Acts 1949, No. 268, §§ 12-14; A.S.A. 1947, §§ 52-512—52-514.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties,

and functions to the Director of the Department of Labor.

Meaning of "this act". See note to § 11-7-410.

11-7-412. Coal miners — Temporary permit — Grandfather clause.

(a) A person making application for a coal miner's certificate of competency and qualification shall be granted a temporary permit to work until such time as an examination is held by the board if, in the judgment of the board, he is so qualified.

(b) Any person regularly employed before June 9, 1949, in any coal mine in the State of Arkansas, shall be entitled to receive a certificate of competency under this act without further notice or examination, and to pay a fee of fifty cents (50¢) for the certificate.

(c) All fees collected from the applicants shall be paid into the Coal Mine Examining Fund and paid out of the fund as other moneys are paid out.

History. Acts 1949, No. 268, §§ 12, 13; A.S.A. 1947, §§ 52-512, 52-513.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties,

and functions to the Director of the Department of Labor.

Meaning of "this act". See note to § 11-7-410.

11-7-413. Coal miners — Apprentices.

(a) Any certified miner may have one (1) person working with him or her and under his or her direction, in addition to any member of his or her immediate family, as an apprentice for the purpose of learning the business of coal mining and becoming qualified to obtain a certificate in conformity with the provisions of this act.

(b) Any apprentice shall first be regularly employed by the owner of the coal mine in the same manner as the other employees.

History. Acts 1949, No. 268, § 10; A.S.A. 1947, § 52-510.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining Board and transferred its powers, duties,

and functions to the Director of the Department of Labor.

Meaning of "this act". See note to § 11-7-410.

11-7-414. Coal miners — Duplicate certificate — Revocation of certificate.

The Coal Mining Examining Board shall possess powers to issue duplicate certificates and to revoke certificates in all cases as provided in §§ 11-7-405 and 11-7-406.

History. Acts 1949, No. 268, § 15; A.S.A. 1947, § 52-515.

Publisher's Notes. Acts 1989, No. 536, § 2, abolished the Coal Mine Examining

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